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ABSTRACT

This document contains testimony and prepared statements from a Congressional hearing called to examine the issue of elder abuse. Chairman Claude Pepper's opening statement discusses the horror of elder abuse and calls for federal legislation, similar to the child abuse legislation, for combating elder abuse. Elder abuse is defined as physical abuse, sexual assault, forceable restraint, isolation, exploitation of money or property, neglect, or failure to provide for physical or health needs of the elderly. Three panels of witnesses testify. The first panel includes three victims of elder abuse and Suzanne K. Steinmetz, an advocate for the elderly. Steinmetz testifies that the frail elderly are often being cared for by their aged children without social support, placing these elderly at risk of abuse. The second panel includes a former finance officer from an old soldier's home who testifies about embezzling money from her elderly clients and an attorney who testifies about the financial exploitation of the elderly. The third panel consists of representatives from Florida, Ohio, Alabama, California, and Arizona giving their states' perspectives. The appendix includes a staff report from Pepper's office which draws the following conclusions: (1) elder abuse is increasing and is reported less than is child abuse; (2) three-quarters of the states have adult protective service laws for mandatory reporting of elder abuse; and (3) states need funding for this new social service area. A survey of the states' human service departments' elder abuse policies is included. Specific federal policy recommendations are made. (ABL)

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ELDER ABUSE

ED264467

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH AND LONG-TERM CARE

OF THE

SELECT COMMITTEE ON AGING HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

MAY 10, 1985

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ELDER ABUSE

FRIDAY, MAY 10, 1985

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON AGING,
SUBCOMMITTEE ON HEALTH AND LONG-TERM CARE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2322, Rayburn House Office Building, Hon. Claude Pepper (chairman of the subcommittee) presiding.

Members present: Representatives Pepper, Skelton, Oakar, Hertel, and Meyers.

Staff present: Kathleen Gardner Cravedi, staff director; Melanie Modlin, assistant staff director; Peter Reinecke, research director; Mark Benedict, minority staff director; Thomas Bazley, detailee, U.S. Postal Inspection Service; Amy Beaulieu, intern; Melanie Pallone, intern; and Julia Kingston, volunteer.

OPENING STATEMENT OF CHAIRMAN CLAUDE PEPPER

Mr. PEPPER. The committee will come to order, please. I want to thank my distinguished colleagues for being here this morning and especially this very fine panel and others who have come here today to help us to authenticate on one of the horror stories of America, the revelations of the sordid aspects that may creep into human character that almost makes us all weep. One of the things that touches our hearts is the things that are being done to the elderly people of America.

The subject of today's hearing, abuse of the elderly, is alien to the American ideal. It represents a shocking and still largely hidden problem affecting over a million of our Nation's most helpless and vulnerable people every year. The average citizen would find it hard to imagine just how widespread and frequent is this problem of abuse of the elderly. It cuts across all classes of society, and occurs in large cities, in small towns, and in the rural areas.

It has been 8 years now since our committee first began hearings on this issue. We are rather proud to remind you today that it was our committee that pioneered the investigation of this subject. The term "elderly abuse" did not exist prior to our hearings. It was largely a hidden problem stemming from victims' fear or dependence on their abusers.

Older victims are reluctant to admit that their loved ones are their abusers. Since the release of our 1981 landmark report on elderly abuse, the subcommittee has received thousands of letters from concerned individuals and abused elders themselves seeking help or information.

These testimonials of abuse led the committee to undertake an investigation to determine the status of elderly abuse in the United States today and how widespread is that terrible abuse.

We have reviewed case histories of abuse brought to the subcommittee's attention over the past 4 years, as well as hearings and reports made by congressional committees and administrative agencies on the abuse of the elderly.

We conducted telephone interviews with abuse experts and researchers, and surveyed literature and newspaper contacts of abuse in the possession of the Library of Congress. A questionnaire was sent to all State human services agencies to ascertain their experience with the problem.

The findings of the subcommittee are included in this briefing paper entitled "Elder Abuse: A National Disgrace," which I would like to have inserted in today's hearing record.

There is the report, which will be filed for the record today. It is the report of our able staff of this subcommittee; and we submit it with regret, but with satisfaction that discovery is being made of the grievousness of this problem.

[See appendix 1, p. 92, for report submitted by Chairman Pepper.]

Mr. PEPPER. The subcommittee was able to reach a number of conclusions which would shock the most unbelieving. The subcommittee found that abuse is increasing: About 4 percent of the Nation's elderly may be victims of elderly abuse either moderate or severe in character.

This is an increase of 100,000 people in the number abused in the Nation in 1 year. The subcommittee learned that elder abuse is far less likely to be reported than child abuse.

While one of three child abuse cases is reported only one of five cases of elderly abuse comes to the attention of appropriate authorities. The subcommittee found that the percentage of States total protective services budget allocated to elderly protective services has remained disproportionately low.

While some 40 percent of all reported abuse cases involve adults and elderly, only 4.7 percent of State budgets for protective services is committed for the elderly.

The subcommittee found that while it is a shame that on the average, States spend only about $22 per child, per State resident for protective services, it is a crime that they spend only $2, on the average, for each elderly abuse victim; $22 are expended to protect the children, worthy as it is, and $2.90 on the average to protect the elderly from these abuses.

The subcommittee found that 82 percent of all adult abuse cases reported annually involve elderly people. The subcommittee found that the majority of the States, three-quarters, that is 37 States, and the District of Columbia, have enacted State statutes to provide for the mandatory reporting of elderly abuse.

This represents a substantial increase over 1980, however, when only 16 States had such statutes. However, the States are severely hampered in carrying out these mandates. Since 1981, the primary source of Federal funding for State protective services, the social services block grant, has been cut nearly one-fifth by direct cuts and inflation.

Too often, whether we read in the paper or hear over the media the debate in Congress about cuts in social programs, we do not relate what we read to human beings.

When some of these cuts are made—others are now proposed, and we have still got to decide on it this year—it may be to perpetuate abuse that has been heaped upon an elderly person, who is helpless to defend himself or herself.

It may mean milk taken out of the mouth of a child that is hungry. It may mean food removed from a table that is almost bare. It may mean shelter denied to a human being. It may mean a precious life will be lost when through proper medical care it could be saved.

Happiness denied to an individual who otherwise, if he or she were able to get the benefit of the things we have to provide for the well-to-do, could enjoy.

So this is an instance where statistics mean something to people, the abuse of the elderly. On the basis of these findings the obvious questions is, "What can the Federal Government do to help provide safety to seniors in their own homes?"

In reviewing the history of domestic abuse in America, the subcommittee found that Federal legislation in the area of child abuse has paid handsome dividends in encouraging the States to enact needed regulatory reform designed to prevent and identify the abuse of children. It seems to me that we should do the same for our elderly as they represent about 40 percent of the cases of abuse reported annually.

Today we will hear from State officials who will detail for us the extent to which elder abuse is a problem in their State and whether the type of legislative action I have mentioned would be appropriate.

Federal legislation oftentimes, if not generally, not only provides benefits assistance to those who need help in given areas, it also generally sets an example for the States.

We can show that after our hearing 7 or 8 years ago, the States over the country immediately began to adopt legislation requiring the reporting of elderly abuse and the like. So the Federal Government can be a lead in what we should do, a leader and a helper.

We will also hear from elders who have been victims of physical, financial, or psychological abuse at the hands of their family, relatives or those entrusted with their care. They are here today in the hope that by sharing their personal tragedies—and I want in a special way, as Ms. Oakar did, to shake hands with these people who come here to tell their stories—they will help other people. We are grateful to them for coming to help us.

Those who are secretly suffering might seek the assistance they so desperately need. Because of their concern for reprisals, some have expressed a desire to remain anonymous. We will honor that request.

We will hear from a woman who has been released to us from the Lexington, KY, Federal women's prison where she is serving a sentence for embezzeling over $170,000 from 32 patients of a health care facility in Wasington, DC.

Most of these patients, whom she befriended, were elderly and too sick to handle their own financial affairs. Also, the U.S. attor-

ney for the District of Columbia who prosecuted the case will elaborate on her actions.

We look forward to the testimony that will be given today. We appreciate the media being here as you are. We thank all for being here to help us. I am hopeful that today's hearing will help stimulate the special attention needed to help those tragically helpless people who are being abused.

Ms. Oakar.

STATEMENT OF REPRESENTATIVE MARY ROSE OAKAR

Ms. OAKAR. Thank you very much, Senator Pepper. I have been with you at every hearing the Aging Committee has had on this tragic question. My interest in the area of elder abuse began in 1978, when a study was done in my area of Cleveland, OH, by the Cleveland Clinic and Case Western Reserve. The study looked at specific cases, and found that of a group of people who were coming in to get treatment, one out of four were abused in some way.

Unfortunately, when I went to the Library of Congress and tried to get information, there was very little information available. Under your leadership and the work of your able staff, a study concerning this terrible question was printed.

We define elder abuse to include physical, sexual assault, forceable restraint, isolation, exploitation of money or property, neglect, failure to provide physical or health needs, including abuse by medication. We know that one of the problems with this terrible subject is that only one of six cases are actually reported. Unfortunately, in many instances the abuser of an older American is a relative.

A study conducted by the State of Massachusetts, revealed that the abusers saw their elder relatives as a source of stress because many of the seniors required more care and in some cases the abusers were unemployed and had their own family problems to deal with and so there was not a relief for them either.

The victims are very often the frail elderly, people over 75 years old. And we know as the Senator pointed out, that a number of States, thanks to the hearings, have instituted a process of incorporating elder abuse in their human services. But most often elder abuse is not considered part of a family violence program.

We have very acute needs to deal with the problems of child abuse and spousal abuse, but unfortunately most agencies across the country do not deal with the subject of elder abuse. So you might ask the question; why aren't there more cases reported?

Let me give you one example, in my district an 81-year-old woman had been brought in periodically to the emergency room of a hospital. The doctors, nurses, and social workers were continually dealing with this woman. She suffered head injuries, which included a fractured skull. The family would bring her in and the doctors would question how it happened. And of the son-in-law would always answer, "Well, she fell."

You may wonder why the doctor, the nurse, or the social worker, did not report that to the proper authorities. One reason why so many are reluctant to report this problem to the proper authorities is that very often it is difficult to prove and very often States and

certainly the national law does not provide immunity from any personal prosecution.

The burden is on the individual who reports the case to prove that indeed this was a subject of elder abuse. And for this reason, when the question of elder abuse was called to my attention some years ago, with Senator Pepper, I have introduced an Elder Abuse Act, and this year it is H.R. 1674, the prevention, identification and treatment of elder abuse.

Basically my legislation would do several things. First it would create a national center on elder abuse under the section of the Health and Human Services. The center would be responsible for compiling, publishing, and disseminating information to the community about this subject.

Second, it would provide Federal matching funds for States that indeed had programs established.

States which provide immunity from prosecution for persons who report suspected cases of elder abuse would be eligible for funding assistance.

It always takes time to pass a law, and it is not the entire solution, but it is my hope that we can get a bipartisan approach this year, Senator, to pass this bill. We have introduced it for many years now; and unfortunately, when we were on the verge of having it passed, we saw that there were cuts in areas, as you mentioned, related to the Older American Act and social services, so this act was not given a priority by the administration.

But we are hoping that because of hearings like this and the courage of the victims to come forward, that maybe it can help us. As responsible leaders, we should pass a bill that will be a national benchmark on the manner in which we ought to treat our older Americans. It takes great courage for today's victims to come forward, and I applaud them. Thank you very much, Senator.

Mr. PEPPER. Mrs. Meyers.

Mrs. MEYERS. I have no opening comments.

Mr. PEPPER. Thank you very much.

Mr. Skelton.

STATEMENT OF REPRESENTATIVE IKE SKELTON

Mr. SKELTON. Thank you very much, Mr. Chairman. I compliment you on convening this hearing on this subject of elder abuse, and I also wish to compliment the leadership that we are seeing in Congresswoman Oakar, my friend from Ohio, on bringing this to the attention of the American public and also putting together some legislation that I think is very, very important in this subject matter.

If as Hubert Humphrey once said, one of the measures by which a nation is judged is the way it treats its elderly, the testimony which we are about to hear today will not make us proud. As with other problems facing the elderly, society has been all too willing to look the other way when it comes to abuse and exploitation of our senior citizens.

Mr. Chairman, a few moments ago I was sharing with Ms. Oakar the fact that a number of years ago I was prosecuting attorney in Lafayette County, MO.

I remember very well when there was a situation of elderly abuse. One particular time a lady was in to see me regarding abuse by her family, and as the tears were flowing down her cheeks, she said, "what do I do? If I prosecute, where do I go? I have no place to go but back to them." That is the dilemma that the abused find themselves in today.

My home State of Missouri has made a serious commitment to fighting elderly abuse. It spends three times more than the national average for each senior citizen to combat elderly abuse.

The State's elderly protective services laws is a flexible and effective statute that the State legislature designed to allow State officials to remove noninsitutionalized senior citizens from a threating environment.

Missouri's Omnibus Nursing Home Act requires those working in nursing homes to report suspected incidents of elderly abuse to State officials under penalty of law. The Missouri Medicaid Anti-Fraud Division agressively pursues and prosecutes those who attempt to financially exploit older Americans. But despite these efforts, I am sorry to say that the reports of elderly abuse are increasing in my State.

According to the Missouri Division of the Aging, the Elderly Abuse Hotline received 2,100 calls in 1981, its first year of operation. In 1984 the number of calls rose to 6,300, a 300-percent increase in just 3 years. That is not even the worst news.

Next year the Division on Aging plans on handling between 9,000 and 9,500 cases to the elder abuse hotline.

While parts of this is increased caseload, and is attributable to the greater awareness of the hotline, the Division of Aging in Missouri believes that the incidence of elderly abuse is on the rise.

So, Mr. Chairman, the States need help in combating elderly abuse. I applaud you once again. I applaud Congresswoman Oakar for her work. It is an unpleasant subject but it is one that must come out of the shadows to the attention of Congress and the American people.

Mr. PEPPER. Thank you very much, Mr. Skelton.

Mr. Hertel.

STATEMENT OF REPRESENTATIVE DENNIS M. HERTEL

Mr. HERTEL. Thank you, Senator, and thank you for all work on behalf of older Americans and all Americans. It is tough to make progress in these problems that affect individuals so very severely.

Up until this century it was easier in the 1800's to protect an animal from abuse than it was to protect a human being, so we have been fighting in the 1900's to make progress. We have made progress in bringing the problem of child abuse to light, progress in my State of Michigan, progress nationwide as has been indicated.

The Oakar bills deserve to be passed by this Congress. The reasons are clear. We have got to get our priorities straight and the direction of this country straight. We are spending over $300 billion on defense, one out of every three tax dollars goes to the defense.

We all know about the stories of waste, abuse, and fraud. I am a member of the Armed Services Committee and I see it everyday.

We are talking about billions of dollars of waste, abuse, and fraud, maybe 20 percent of that defense budget involves waste, abuse, and fraud. We need some money for the defense of our older Americans.

The Oakar bills in total, for all that they could do for being budgeted for one complete year, those bills would help older Americans, protect them from abuse, would cost less than the cost of one B–1 bomber.

So when people say we don't have enough money on the Federal level to deal with this problem, they are very clearly wrong; we do. All of our other freedoms, all our other rights, can't be enjoyed if people don't have their dignity. That is the most basic right that people deserve and that is especially true for older Americans who have sacrificed so much.

I support the Oakar bills. I thank the committee and the chairman for their work and I appreciate the people who have come today to testify to let the American public know about his problem so that we can get on toward working toward a solution.

Mr. PEPPER. Thank you very much, Mr. Hertel.

Now we will hear from our panel. We have four panelists here now to be heard. The first will be Mr. Smith, a name by which the witness will be known, accompanied by Mr. Scott Harshbarger, Esquire, district attorney, Middlesex County, MA.

Next will be Mrs. D., accompanied by Ms. Susan Satya, Victim Sevices Agency, Bronx, NY.

Third will be Mrs. Lily Hsu, age 65, accompanied by Ms. Debra Dolch, conservator, San Francisco, CA.

And the fourth, will be the panel coordinator, Dr. Suzanne Steinmetz, professor, individual and family studies, University of Delaware, Newark, DE.

Our first witness will be Mr. Smith.

PANEL ONE—VICTIMS OF ABUSE: CONSISTING OF "MR. SMITH," ELDERLY VICTIM, ACCOMPANIED BY SCOTT HARSHBARGER, ESQ., DISTRICT ATTORNEY, MIDDLESEX COUNTY, MA; "MRS. D.," ELDERLY VICTIM, ACCOMPANIED BY SUSAN SATYA, VICTIM SERVICES AGENCY, BRONX, NY; LILY HSU, ELDERLY VICTIM, ACCOMPANIED BY DEBRA DOLCH, CONSERVATOR, SAN FRANCISCO, CA; AND SUZANNE STEINMETZ, PROFESSOR, INDIVIDUAL AND FAMILY STUDIES, UNIVERSITY OF DELAWARE, NEWARK, DE

STATEMENT OF "MR. SMITH"

Mr. HARSHBARGER. I am Scott Harshbarger. Mr. Smith is here to testify. I will then speak after him. He is obviously here in disguise. It is not meant to be a caricature in any way. He is very concerned, as he will explain it to you, as many others are about his safety. He would only agree to testify—and the staff has complied with his wishes—if we did everything we could to assure anonymity, not soley by name, but in terms of appearance as well.

So I want to make clear that that is the basis on which he is here.

Mr. PEPPER. Thank you.

Mr. Smith, speak right into the microphone, please.

Mr. SMITH. Good morning Mr. Chairman and members of the subcommittee. As you can see, I am very nervous and I possibly am putting my head on the chopping block. My story is very real.

I am a victim of elderly abuse by a family member. I have agreed to join with District Attorney Harshbarger to tell you that story. I am here to emphasize that abuse of the elderly is going on everywhere in this country. The stories you have heard are true. This is not hearsay.

I am living proof. One reason why you don't get a lot of complaints from the elderly is I am living and they are dead. I am 75 years old, married, a retired male nurse, and the father of three children. My oldest son is 42 years old and has a history of drug and alcohol abuse, as well as a physiological chemical imbalance.

He has lived at home with my wife and me for his entire life, except for 5 years during which he was married. My son has been divorced for several years. The divorce had a devastating effect on him and he moved back in with us.

My son has caused frequent problems for my wife and me. In recent years, there was constant verbal abuse, downgrading and taunts. And as the Congressman, Mr. Hertel said, I have lost my dignity. When you work two jobs for 25 years in order to make the elderly years good and you arrive at 75 and your son tries to kill you, you have to squash the story. The innocent must not suffer; and that is why I am here in disguise.

During the time that my wife was very sick—she has hypertension—at one time we almost lost her 3 or 4 years ago. She had a blood pressure 240 over 119. It took 3 full years to find the right drug to bring that blood pressure down, and she can't stand hypertension and that is what we were getting.

I had to sell a home. I had three children and I had it all figured out. One would live in one and each one would have an apartment, but we couldn't do it after the attempt. So I sold the house and now my wife and I are alone for the first time.

We have now been living alone about 2 weeks, my wife and I. It is kind of late to have a lot of fun, but we are enjoying it anyway.

Finally, in December of last year, my son attacked me with a hatchet while under the influence of drugs and beer. I struggled with him, but he was able to strike me in the hip with the hatchet.

Fortunately, I was not seriously injured. The physical injury which I suffered has healed with time. The emotional and mental scars do not heal so easily. An incident such as this affects everyone in a family. We are attempting to recover—but it is difficult.

The support and sensitivity shown by District Attorney Harshbarger's office has been invaluable during our ordeal. The prosecutor who handled the case was always willing to listen to my concerns and fears. The victim witness advocate assigned to the case responded to my needs whenever I asked.

I wouldn't be here if it wasn't for District Attorney Harshbarger, Tom Samoluk, Emily Gould, and Ellen Frank. They showed my wife and I so much love and kindness that I could breakdown just thinking about it. I hope my presence here will help to focus attention on elderly abuse. If something positive comes out of this hearing it will have been worthwhile for me to tell my story.

Thank you for allowing me to appear before you today and I am here to protect the innocent.

Mr. PEPPER. Mr. Smith we thank you very deeply for your courage in coming here today.

Mr. Harshbarger, would you like to add anything?

Mr. HARSHBARGER. I have submitted a prepared statement on this topic.

Mr. PEPPER. Without objection it will be received for the record.

STATEMENT OF SCOTT HARSHBARGER

Mr. HARSHBARGER. I am the district attorney of Middlesex County in Massachusetts, a diverse jurisdiction of 1.4 million people and 54 cities and towns.

We have attempted in the past 2 years to formulate what we hope will be a major plan that will be effective in dealing with crimes against the elderly. We see elderly abuse as being one part of a whole series of crimes and actions for which elderly people are targeted by a variety of sources. Although it is clearly one of the most tragic and certainly one of the most complex, there are many other areas and we have tried to identify some of the problems that we think can be addressed by the criminal justice system and by the community.

I would like to take a couple of minutes to give you some of that focus, because I think it places Mr. Smith's story in context.

I would like to stress, as an example, that in the past 5 months in Middlesex County we have had referred to us for investigation and prosecution 102 cases of child abuse. Over the past 18 months under a Massachusetts law requiring mandated child abuse reporting, we have had 300 cases involving 350 victims of child abuse reported to us for criminal prosecution. Ninety-five percent of those are sexual abuse, and 50 percent involve children under the age of 12.

We think that, by and large, this dramatic increase is a reporting phenomona, and not a dramatic increase in the incidence of abuse. In my opinion, the problem of child abuse pales in comparison with the problem we are beginning to see in the area of elder abuse because, frankly, in the area of elder abuse we tend not to see the dramatic types of sexual assaults by family members as repeatedly as we do among caretakers, relatives, and friends in child abuse cases.

So we are dealing with a more complex problem, in many ways. We started with three or four basic premises. The first was that the elderly are no different than the public generally in terms of having lost confidence in the ability of the criminal justice system to protect them.

But second, even though crime has decreased generally, people's perception that crime has increased and fear of crime has increased dramatically. Third, most serious crime is, in fact, committed by people who know each other, whether neighbors, friends, relatives, people of the same race, economic status, or community.

Fourth, some of the most serious crimes are not crimes of violence, but more subtle crimes of abuse and neglect, of consumer

fraud and white collar crime which deprive people of lifelong investments and take advantage of their situation.

Fifth, there are no magic solutions, but there are realistic approaches. There are realistic approaches the criminal justice system can take, and there are realistic approaches in terms of prevention that citizens in the community can take.

Our approach is geared to this premise in dealing with crimes against older Americans. We believe that, like the poor and children, because of their relative or perceived powerlessness, they suffer most dramatically from the actual effects of crime and they are wounded several times over. They are affected not only by the normal victimization that we are concerned about with victims coming into the criminal justice system, but their sense of security is eroded; their fear of loss of control is heightened; their fear of reporting and intimidation is real; and their concern that they, because of their age alone, may have caused themselves to be victims, is the tragedy.

Further, in many cases the elderly person is targeted solely because of age. For example, the consumer ripoff artist who targets the elderly, the [illegible] who abuses and overbears targets his parents, the teenager w[illegible]als, targets elderly projects, and the deviant male who assaul[illegible] rape, all target elderly people because of their perceived powerlessness and vulnerability.

This should surprise no one in our society, because we in the media, our sales force, and we in politics do the same thing. When we focus extraordinary efforts on persuading the elderly to buy, or to vote, in my opinion, we, too, stigmatize the elderly and treat them as vulnerable, easy, homebound, fearful targets for our products.

Our five major premises are geared to these objectives. First, public education and information. This may sound trite, it may be a truism—but until we get the word out to people that there are services available, they do not come forward.

We spend a tremendous amount of our time reaching out to the small minority of senior citizens who are active in community organizations in hope that they will become a vehicle for reaching the majority of older Americans who are not participants in any concerted organizations. As effective as these are, the vast majority of older Americans do not participate in any organized group, often live alone, particularly the widowed, and don't make contact back into the community. We think that link is critical to tell them what is available.

These hearings have had a major impact, in my experience, over the past several years in doing that, and you, Congressman Pepper, as a symbol of this effort, have probably done more than any other single person to make that awareness real.

The reporting of abuse can only be done if we show that we can support people when they come into the system. They are intimidated. Mr. Smith's story is not unusual. We have very few cases of criminal elderly abuse that we prosecute.

In fact, less than a dozen cases have been reported to us for criminal prosecution in Middlesex County in the past 18 months under our elderly abuse reporting law. That concerns us because we know that that is not even the tip of the iceberg. But we are

satisfied that in large measure it is because of the pain, the intimidation, the fear of a victim coming forward, and more importantly, the support it affords, provides, even if negative, someone they love, or a relative that is their only link to the world.

In Mr. Smith's case we also try to point out that people do not always go to jail. There are a variety of other alternatives. Mr. Smith's son pled guilty and was given a suspended sentence. The condition of probation was extensive alcohol and psychological treatment and counseling. We hope that is being successful, but more importantly, we have tried to satisfy the Smiths' that we are there to protect and will support them every step of the way.

That becomes the third major ingredient, which people should not underestimate, that in the criminal justice system, the support provided by Victim Witness Services Bureaus like ours is probably the single most important thing that has happend in the criminal justice system in the past 5 years, in terms of opening up the system and recognizing the needs and interests of the victims and witnesses in the process.

We have 20 victim witness advocates who work every day with victims and witnesses when elderly people come into the system. They go to their homes and work with them from the beginning. And I am proud of this one case where that clearly made a significant difference.

We think it makes a difference in hundreds of cases and people's perception that the system will support them. They provide services and apprise people of what is going on throughout the process.

We have in Massachussetts also a new victims rights law, which if it is not being enacted in other States I recommend it be enacted because it has also impacted the criminal justice system and it is responsible for tremendous gains for victims.

In terms of priority prosecution, we treat, under our career criminal program, which we use for serious violent offenses or serious repeat offenders, we treat any crime against an elderly person, of whatever type, whether consumer fraud, white collar crime, larceny, breaking and entering, as a case for priority prosecution in which we ensure the case goes from arrest to trial within 90 to 120 days, in which we assign an experienced district attorney to work on the case from the beginning and a victim witness advocate.

We have to get the message to people who are the victims that we will treat these cases severely and appropriately in the criminal justice system, and that continues to be done.

Finally, I have created a task force on crimes against the elderly which involves all of the local agencies that are involved in this field much like we are doing in the cases of child abuse, with interagency coordination, multidisciplinary arrangements at every level. And we hope that that will begin to make a significant difference.

I am concerned that if we don't address this now—every public official, every district attorney—I think that we are turning the generational time bomb on its ear here.

We know, unfortunately, too many abusers of their parents were themselves victims of child abuse, as children, as sad as that may seem, and as hard as that may be to correct. But I think here we have a chance for a variety of reasons to address this effectively.

I commend you and offer any assistance that we can. I am sorry to take this additional time but I wanted to put in context what I see as a district attorney.

To summarize, we are not getting the cases reported. The system is not supporting the victims of crime with these particular heightened needs and awareness in general. But we are taking some steps forward.

I encourage at every level the support for elderly legal services programs, for senior citizen community groups, because in the end the answer lies in the communities, not in the criminal justice system, and we need your support.

[The prepared statement of Scott Harsharber follows:]

PREPARED STATEMENT OF SCOTT HARSHBARGER, DISTRICT ATTORNEY OF MIDDLESEX COUNTY, MA

Mr. Chairman and members of the Subcommittee, I am honored and pleased to be invited to testify before you today on the serious and complex problem of crime against the elderly, and particularly on elderly abuse.

Since I became District Attorney in January of 1983, we have implemented a major program to prevent and prosecute crimes against the elderly. I would like to review with you the major elements of that program today and share with you some of my observations and conclusions.

Before I do that, however, I would like to articulate for you briefly the basis for my concern about these crimes in particular. First, the public generally has lost confidence in the capacity of government and the criminal justice system to protect them against crime. Second, since we all believe that crime has decreased, we are clearly dealing with a much more serious problem—people's perception that crime is rampant and an increasing fear of crime that affects the quality of life more subtly and insidiously. Third, most serious crime is committed by people who know each other—neighbors, friends, relatives, people of the same race, economic status and community. Fourth, some of the most serious crimes that in fact do affect the quality of one's life are not crimes of violence—but the more subtle crimes of abuse, neglect, consumer fraud and white-collar crime. Fifth, there are no simple or magic solutions or panaceas, but there are realistic, concrete approaches to meet the challenge of crime in this decade that work and work well—from the reform of the criminal system to ensure that it functions professionally, speedily and certainly, which are my responsibilities, to prevention steps that can be taken to minimize, deter and detect crime—in which all of us can play a role, particularly citizens.

The elderly, like the poor and children, because of their relative or perceived powerlessness, suffer most dramatically from the effects of actual crime as victims and the effects of the fear of crime as members of the community. The elderly, as victims, are wounded several times over—their sense of security is eroded; their fear of loss of control is heightened; the fear of reporting and intimidation is real; their concern that they, because of their age alone, may have caused themselves to be victims is tragic. Further, in many cases, the elderly person is a victim solely because he or she is targeted—because of age alone—for crime: the consumer rip-off, the son who abuses and overbears, the teen-ager who harms or steals, the deviant male whose assults to rape—all deliberately target the elderly person because of the perceived powerlessness and vulnerability of this group of Americans, whoever they are, wherever they live. This should surprise no one—the media sales forces and the political consultants do exactly the same thing when they focus extraordinary efforts on persuading the elderly to buy or vote. We, too, stigmatize the elderly and treat them as vulnerable, easy, home-bound, fearful targets for our product.

Middlesex County is the largest and most diverse county in Massachusetts, and one of the largest counties in the United States—1.4 million people, 54 cities and towns, including urban, suburban and rural areas. Because of this diversity, I believe our program, if it is effective, can be utilized by many other jurisdictions. The major elements of the program are the following:

First, Public Education and Information.—I personally meet with organized senior citizens groups in every community to emphasize our availability to them. It is crucial to establish communication with the elderly. They must be made aware that they can contact us if they need help. In addition, I tell the small minority of senior citizens who are active in these groups that they must be our link with the

many elderly persons who are not active in any groups. These individuals are often victimized, but believe that they have nowhere to turn for help. I am determined to reach the elderly who need the assistance of the district attorney's office the most. They must be assured that we are their allies, here to protect their safety, rights and interests.

Second, Encouraging Reporting of Abuse Against the Elderly.—Elderly abuse is perhaps the saddest of all crimes committed against the elderly. The criminal is often a relative, frequently a daughter or son, or a close friend or caretaker. It is intimidating and painful for an elderly person to report someone they love or with whom they have been acquainted for many years, no matter how serious the crime. Further, victims sometimes refuse to report a crime because they fear that a relative will automatically be jailed, or that they will lose the support, however negative it may be, of a person they have come to depend on. We are sensitive to these concerns. In cases which my office prosecutes, the desires of a victim are always taken into account when recommending a sentence. In appropriate cases, alternatives to jail sentences, such as probation, treatment or counselling will be considered. For example, following the arrest of "Mr. Smith's" son, he pled guilty to charges of assault and battery with a dangerous weapon. In this particular case, the defendant had no prior criminal record and his problems were related to alcohol abuse. The court considered the wishes of "Mr. Smith" and the defendant's record. He was given a one year suspended jail sentence, supervised probation and ordered to seek out-patient alcohol treatment. We also obtained a restraining order, keeping him away from his parents and their home. The result is that "Mr. Smith" and his wife are protected and their son is getting the needed counseling. You have heard "Mr. Smith's" story. It is *not* unusual.

Third, Implementation of the Elderly Abuse Reporting Law.—In Massachusetts, another important step has been taken to protect the elderly. I am a strong supporter of a recently enacted state law which requires the reporting of cases of suspected elder abuse. The law, which went into effect on July 1, 1983, requires certain medical and psychological professionals to tell the State Department of Elder Affairs if they believe a person over the age of 60 is being abused. In addition, anyone who suspects elder abuse may report the case to a toll-free, 24-hour hotline operated by the state.

Once my office is notified of a complaint, we determine the appropriate action: prosecution, removal of the abuser or the victim from the home, or treatment.

The crucial point is that if an elderly person is the victim of a crime, it is essential that it be reported, for the protection of the victim and the protection of other potential victims.

Fourth, Support for Victims in the Court System.—Many victims fear that they will be victimized a second time by the criminal justice system if they do report a crime. I created a Victim Witness Assistance Bureau staffed by experienced personnel to deal with the very real concerns of victims. There are currently twenty Victim Witness Advocates in my office whose sole purpose is to assist victims and witnesses. They are particularly sensitive to cases which involve an elderly victim.

These advocates are available to answer questions and to help with any concerns that might arise. They provide services from the time the crime occurs until the end of the process. Massachusetts also has a new victim's rights law that offers particular rights and services to its citizens. Advocates keep victims apprised of the status of their case and informed about their rights. Advocates help victims find solutions to the emotional and physical losses they may have suffered as a result of being a crime victim. We assure the elderly that they will never be left alone to make their way through the criminal justice system.

Fifth, Priority Prosecution of Crimes Against the Elderly.—I am committed to making sure that justice is administered swiftly, efficiently and effectively in cases involving elderly victims. Once my office becomes involved with a case with an elderly victim, it becomes a matter for "priority prosecution," regardless of the nature of the crime. Once so designated, the case gets special and immediate attention by an experienced prosecuting attorney. A Victim Witness Advocate is assigned to assist the victim in any way requested. Our goal is to make the judicial process as painless as possible for the elderly person, while fulfilling our responsibilities as prosecutors to treat crimes against the elderly with severity.

Sixth, Task Force on Crimes Against the Elderly.—As another measure to focus attention and resources on crime and the elderly, I have recently created a Task Force on Crimes Against the Elderly. The Task Force is made up of representatives from several national, state and local elderly organizations, local police department personnel, members of the academic community and individuals from my office. The purpose of this Task Force is to actively involve members in defining the role of the

district attorney's office and the public and community resources in combatting crime against the elderly.

I have concluded that every public official, every District Attorney, has a special responsibility to give priority to the prosecution of those who victimize the elderly. I have also concluded that the key to our success depends largely on the ability and willingness of the leaders of the elderly community to work with us in each and every area. Together, we can restore the confidence of the elderly in our system and, more importantly, empower them to once again take control of their lives and erase the fear of crime that increasingly immobilizes them and destroys their right to freedom, liberty and a life of power and dignity.

If we do not do this now, we are condemning over 25% of our citizens to years of confinement, and we will soon learn that the serious and complex problems of child abuse—which all of us face today as a result of dramatically increased reporting—pales by comparison to the systematic familial abuse of elderly people—as the worm of the generational time-bomb of child abuse turns.

Mr. Chairman, I commend you for your leadership. I am prepared to do all I can to assist you. I hope our program—just one step—will be useful to you as you continue your efforts. As Shakespeare said, "the oldest hath borne most." We owe it to our parents and to ourselves.

Mr. PEPPER. Thank you for your able statement. We welcome recommendations coming from you personally or from your association of district attorneys.

Our next witness is Mrs. D., accompanied by Mrs. Susan Satya, Victim Services Agency, Bronx, NY.

STATEMENT OF "MRS. D."

Mrs. D. My name is Mrs. D. I am 64 years of age and come from New York City. I am glad to be able to share my story today. It is not an easy story to tell. Sometimes I can't believe I came through it alive or with my sanity intact.

I had lived in a small apartment for many years. My daughter, who's now 43 years old, suggested maybe I should buy a house. She could move in with her husband and help me look after my husband, who's had some serious health problems. I could put her name on the deed, too—we would be coowners of the house.

I though she had a good idea. Taking care of my husband was very demanding—he had had a stroke in June 1983, and has been in and out of the hospital ever since. I though she and her husband could shoulder some of the burden for his care. Was I ever wrong.

We moved into the house in October of last year. My daughter and son-in-law didn't lift a finger to help! To take me shopping in a department store or something, even though they both had cars, was out of the question. My poor husband, who is confined to a wheelchair, was in bad need of a haircut one time. I had to plead and finally sob to get them to even do that.

The first week of December 1984, my son-in-law and daughter started acting irrational. I walked into the room one day and I must have unknowingly said something bad—my son-in-law socked me across the face. I began to see the pattern—they were trying to make life miserable for me so I would move out and leave my daughter the house. After one or two of these violent encounters with my son-in-law, I called the police. They told me it was "just a family feud" and they couldn't help. My son-in-law felt no fear of the police. "You'll never get any witnesses," he'd say with a smile. It's true—my daughter never stepped in to defend me. Ever since she met my son-in-law, she's acted a little crazy. He never has any

money. He's a compulsive gambler and has trouble holding a steady job. He's emotionally unstable, as the next part will tell.

Last year, on Christmas day, the dial on the dishwasher was just a little bit off center, so it appeared the machine might still be running, although it was off. Well, this trivial fact turned my son-in-law into a madman. He chased me into the living room, yelling about it, and threw me up in the air. I should tell you that he's a big fellow, about six feet tall, and, as you can see, I'm no match for him. When I landed, my foot hit the coffee table. I fell backward on the living room couch and he began choking me. Luckily I broke free somehow and ran to a nearby gas station to call the police. They arrived and I told them what had happened. They suggested I get a court order to keep him out of my house. The threat of this sent my daugther and son-in-law packing. They moved to his aunt's place and I thought the worst was over.

In early January a moving van appeared at my door. Without warning, they were taking all my daughter's furniture out of my house. All my furniture was in the cellar and would be quite a challenge to have brought up. I called my lawyer to see whether all this was legal and he told me to let my daughter go—good riddance.

My daughter then resorted to another tactic—harassing phone calls demanding I sell the house. (Because she and I are coowners of the house, half the money received for its sale would go to her.) She would sometimes call at three in the morning and just hang up. Strange as it may sound, I was scared to death of my daughter at this point. I changed the locks on the door because I thought she would do something rash. My son-in-law, in an attempt to establish himself as a resident in my home, had had all my bills switched to his name. I was threatened with the shutting off of my phone, heat and electricity. To make matters worse, my husband had to go back in the hospital. Under all this stress, I really thought I would have a nervous breakdown.

By coincidence, I had been watching the Regis Philbin TV show and heard about an organization that aided older people with problems. It was called Aging in America. I looked them up in the phone book and a volunteer came to see me that very afternoon. I spent 21 days in a Red Cross shelter through a program called Tempcare. This clean facility gave me my own room and three meals a day. It was free. At the same time, a staffer at Aging in America put me in touch with the group that Susan Satya works with, the City Victim Services Agency. They counseled me and went over my case. They were the ones who suggested I get a court order of protection. They helped me every step of the way with complicated legal proceedings. Now, until October 1985, my son-in-law is not to come near me or my property.

This has been a terrible time. I consider myself a strong woman, but I really don't think I could have made it without the aid of these organizations—Aging in America, the Red Cross Tempcare Program, and the Victim Services Agency. I'm glad I've beaten my daughter and son-in-law at their own game. I hope that services like these are available to elderly people around the country. They are definitely needed.

Mr. PEPPER. Ms. Satya, would you like to add anything?

STATEMENT OF SUSAN SATYA

Ms. SATYA. I don't have a prepared statement.

The agency is going to be sending a prepared statement to you. I would just like to say that this is not an uncommon case and, in fact, it is probably a less chronic case, though I think this case is really an example of the need for the coordination of services. She saw it—the media can play a big part in helping to educate victims by press releases and by getting the information out.

After that, the worker at Aging in America had gone through the elder abuse project does training for professionals and that is why she knew to call us and what steps were needed. She called us and I consulted with her over the phone.

The second part of that is that she has been hooked up with one of our volunteers. We also train senior citizens to become peer support counsellors and that is who went to court while she went to get the order of protection.

As she put it, she probably wouldn't have gone through the court process without that support. There is another person in the elder abuse project support group who went to court without support in the past and left because she was too intimidated by the court process to follow through with it.

I think these cases need an immense amount of support. There are chronic victims. We are talking about abuse that goes on for 50 or more years in some cases.

This was not a case of chronic abuse but I think without services provided, it can make the difference between whether a case becomes a case of chronic abuse or whether it is a case for change.

Mr. PEPPER. Thank you very much. We are glad to commend you for the great help that your organization provides.

Mrs. MEYERS. Mr. Chairman, could I ask a question or would you rather wait?

Mr. PEPPER. We will wait.

[The prepared statement of Lucy N. Friedman follows:]

PREPARED STATEMENT OF LUCY N. FRIEDMAN, EXECUTIVE DIRECTOR, VICTIM SERVICES AGENCY, NEW YORK, NY

Good morning. My name is Lucy Friedman and I am Executive Director of the Victim Services Agency in New York City. VSA was established in 1978 by Mayor Edward I. Koch to reduce the trauma and expense experienced by crime victims. The 100,000 New Yorkers we helped last year include victims of many types of crime: purse snatching; rape; burglary; and survivors of homicide. Increasingly, we have devoted our energy and resources to helping victims of crime in the family, as our research and experience have helped uncover the magnitude of these often hidden crimes. Two years ago, VSA began a program to help elderly New Yorkers who are victims of domestic violence. We appreciate this opportunity to report on our experience.

The U.S. House of Representatives Subcommittee on Aging reported in 1981 that 4 percent of the elderly-one of every 25 older Americans—is abused by family members, a rate that suggests a crime problem as wide-spread as child abuse. Elder abuse victims may be injured physically and debilitated psychologically by the abuser, often a child or younger relative.

Victims of elder abuse are usually reluctant to seek help: Many are dependent on their abusers for financial support and daily care. Some may have been threatened with serious injury if they report the abuse. If the abuser is a child of the victim, the victim may suffer from shame or guilt that inhibits admitting the situation to others.

Two recent cases illustrate some of the problems faced by victims of elder abuse:

Jack Klein,[1] a 70 year old widower, lives on Social Security and savings. Two years ago, he assumed legal responsibility for his granddaughter as a result of a family court hearing brought by her mother. Since his granddaughter began living with him, she repeatedly beat him and, on one occasion, fractured his hand. She threatened him with further violence if he didn't buy her clothes and records, thus forcing Mr. Klein to spend $16,000 on these items in one year.

Ella Roberts,[1] 80 years old, lived with her middle-aged son who pushed her and often threatened her with more serious harm. Too frightened to venture into the rest of her spacious house, she moved into her basement. Isolated from her friends, she rarely went out except to see her doctor. She feared her son but she also felt that she contributed to his behavior. She was afraid to move because her son threatened to kill himself if she left.

In both these cases, the victim was inhibited from seeking help by several factors: fear of physical harm; feelings of guilt or responsibility for what was happening; and an inability to recognize that they were victims of a crime, and that abuse is not a private matter.

Many victims of domestic violence, such as battered women, are isolated by their attackers from contact with others. This holds true for elder abuse and the problem is compounded by the sense of isolation many elderly people already feel in our society. Perhaps the biggest challenge we faced when we established an Elder Abuse Project two years ago, was to figure out how to break through this isolation so that we could provide help to the victim. We realized that we could not just respond to requests for help, but had to devise an active outreach program.

Our efforts were further complicated by the feelings of distrust with which many seniors view social service agencies. Some elderly attach a stigma to seeking help from service providers because of the perceived threat to their self-reliance. Many seniors feel that disclosure of abuse will automatically result in being placed in a nursing home. They continue to live in the abusive situation, with the vague and rarely realistic hope that perhaps things will improve.

VSA's Elder Abuse Project was developed in two stages. The initial program was begun in 1983 with a grant from the Community Development Agency (CDA). In an effort to serve elder abuse victims in the Bronx, the project provided direct services including counseling, court advocacy, transportation and lock replacement. The project provides training and case consultation to social service and health care providers who already assist the elderly. Building upon this existing network of support has enabled VSA to reach this client population quickly.

In January 1984 a second CDA grant enabled VSA to build on the demonstration by developing a peer support component to the project. Senior volunteers, trained in elder abuse issues, are paired with victims and provide ongoing support and encouragement. In a further effort to break down the isolation elderly victims experience a support group led by a senior volunteer was established. Elderly victims share their experiences with one another and come to see that others have similar problems. Volunteers for the project are recruited through outreach at senior centers, churches and unions.

During the past two years, the Elder Abuse Project, with two professional staff, four volunteers and two graduate social work interns, has:

provided intensive services to more than 80 victims and their families;
provided personal safety and elder abuse information to more than 225 seniors;
developed training curricula for volunteers and for professionals;
trained more than 300 professionals from a variety of agencies and four volunteers in elder abuse identification and intervention; and
provided case consultation services to more than 75 agencies working with elder abuse victims.

Although the purpose of the Elder Abuse Project is to assist victims of crime, I am pleased to report that an added benefit has been to increase the sense of community among elderly New Yorkers. This has been shown both in the appreciative response of the victims we have served, and in the support we have received from senior volunteers.

Our senior volunteers say:

"It is hopeful to know I still have an important role in life—aging need not be a barrier to learning, change and growth."

"The Elder Abuse Project has made me realize I always want to keep busy and have something to learn each day."

"We do like to help people and that is why we've joined the programs."

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[1] Pseudonyms have been used.

"Without the program and the training that we had, I never knew this problem existed. It's a good feeling to work with these people because in return they give something to me."

One of the missions of the Victim Services Agency is to heighten public awareness about victim issues. In some types of crime—such as domestic violence, child abuse, incest and elder abuse—public awareness is essential to dealing with the problem, since many victims are not even aware that they are victims.

Yet as public awareness increases, we must be prepared to provide concrete services for those who are in a position to identify themselves as victims in need of help. At present, our program is able to serve only a small fraction of elder abuse victims in New York City.

To extend our services throughout the city will require a sustained commitment of public resources to a problem whose scope and nature we are only beginning to comprehend. VSA commends this subcommittee of the House Select Commitee on Aging for focusing public attention on the plight of the abused senior citizen. We hope that this attention will enable elderly victims to seek help and that public support of programs such as ours will allow us to provide it.

Mr. PEPPER. Our next witness will be Mrs. Lily Hsu, accompanied by Debra Dolch.

STATEMENT OF LILY HSU

Mrs. HSU. My name is Lily Hsu. I have been an American citizen since 1959. Thanks you give me a opportunity to speak my sorrow and torture from you. Please be patient with me.

After my husband died in 1970, I manage our apartment house 1 year. I made more income, but the tenant make trouble with me. Do not pay my rent. Damage my furniture. My son-in-law looked those trouble. Ask me to let he handle, to get conservatorship. Not let me worry, get sick. First year is all right. Later on, I find he is dishonest. Perhaps he did not write receive rent one by one, expense write once or twice. He promise to show me statement every 6 months but he didn't show up.

I have had about $10,000 in the savings. He withdrew all my money without notice me. He do those things all through the lawyer's direction. I ask him those savings, I have passbook in my hand. "How come you go to bank without passbook?" "They let you withdrew money," he said. He did not even say what he use money for.

He said he will modernize the apartment house to raise rent. Borrow $20,000 from the Golden West Loan Company. He spent money unnecessarily. Do star spring ceiling. Pay $1,500. Bought material, paid $1,400. Roof repair $1,700. First he work diligently every Saturday and Sunday. Later on he quit to do work. He said, "I sell, buy junk. Don't bother with me."

In 1975, August 12, he sold my apartment house, only $122,500. Said I didn't remodel. I sold $145,000. "How you fixed, sold too low?" I refuse to sign. He went to court to get lawyer to prove. After paid debt only had $54,000. All money in his hand. He loan out $37,625. Rest money he put in savings and loan. Every month he pay me $376.25 for my expense. In 1979, he had 5 months didn't pay me. I have no money to pay rent and buy food. I sell my jewelry. In 1980, had 8 month he didn't pay me. I bring this matter to court. Judge order him must pay rent, $150 for my food and expense. He still can't follow up. He cheat me. We found the capital had been embezzled. He is guilty. I suffer lots. I get worry too much. I can't sleep. Head pain. Live in the hospital. Took lots of

medicine. He took my money and use it for downpayment on his house.

He bought bond $50,000. The Safeco Bond Co. should pay me $50,000. Why judge only grant $30,000. I reject.

Since this matter in court 4 years, I have not got interest. I have no income. My mental anguish worry to death.

Thank you.

Mr. PEPPER. That is a sad story, Mrs. Hsu. Would you care to add anything, Ms. Dolch?

STATEMENT OF DEBRA DOLCH

Ms. DOLCH. My name is Debra Dolch. I was appointed to serve as conservator of the estate of Lily Hsu on March 7, 1985.

Mrs. Hsu speaks the truth when she tells you she has been tortured. When her son-in-law was appointed as her conservator in 1973, her estate was worth over $167,000. When he was finally removed in 1981, all that remained was $3,000 and some real estate notes that are probably worthless.

Mrs. Hsu received assistance in fighting the financial abuse from the court investigator who arranged for attorney representation without which Mrs. Hsu would probably never have recovered the money from the bond.

In addition to the financial abuse, Mrs. Hsu suffered emotionally and physically. When she first became aware of the financial abuse, she started having severe emotional problems which led to several psychiatric hospitalizations.

At the same time, she was suffering physical abuse at the hands of a family member whom she declines to name because she loves the person and doesn't want the person hurt. That individual has apologized several times. Mrs. Hsu has scars from the physical abuse and is in pain on a daily basis.

Mrs. Hsu is a very strong woman to have survived as she has. It is a privilege to know her.

This concludes my testimony. Thank you.

Mr. PEPPER. Thank you very much, Ms. Dolch.

Now we will hear the last member of the panel, Dr. Steinmetz.

STATEMENT OF DR. SUZANNE STEINMETZ

Dr. STEINMETZ. Mr. Congressman, members of the committee, I am proud to be here today because I have been fortunate to be a part of this concern over elder abuse since the 1977 hearings on family violence.

At that time I was the only member of a group numbering somewhere around 25 witnesses that did not address child abuse or wife abuse. My testimony addressed elder abuse. I am glad that somebody showed consistent interest, as Ms. Oakar has in a number of instances, in seeing that we work through this problem of elder abuse and bring it to the Nation's attention.

We had hearings on elder abuse in the 1980's, and 5 years later we are having hearings again. I have to admit I am finding the progress to be very dismal. With all the excitement that has been evidenced from 1977 to today, what has happened?

Thirty-eight States have passed mandatory reporting acts but many of them lack the money to provide adequate services that are needed so that elder abuse might be prevented or early intervention provided.

We also have some private support groups however. What has the Federal Government done? I look around and I don't see too much and I implore you, please pass the proposed legislation. It is desperately needed.

Unfortunately, we face a lessening of services that had been available for the elderly, the eligibility requirements have tightened and in the 1983 budget a "redefinition" of what States may do in terms of long-term care, is proposed. The relative support laws proposed by some States actually put the total burden of care for the elderly on the family members removing any responsibility from the State.

These laws have mostly been challenged or overturned on technicalities, however, if push comes to shove and money tightens, those technicalities can easily be overcome.

I would like to point out something that I have found very interesting and yet very frightening. Congressman Pepper reported that there were 4 percent of the families of elderly who were probably abused. I have just finished analyzing some data from my study and found 12 percent of my families had physically abused an elder. If you are willing to consider, and I think we have to, force feeding or forcing medication such as the use of tranquilizers to make these people more controllable, then the percentage goes up to 23 percent. Thus nearly 1 out of 4 of these families being cared for by a relative were being abused. These figures do not take into account neglect or psychological/emotional abuse.

These are not families like those of the victims you have heard today. These are friends, family, neighbors, people who have done everything possible to try to provide the best care for their family members. These families were not exploiting the elder, they were selling things in order to be able to pay the cost of caring for this parent. What happens when you take in an elder—and I am seeing in many of these families "latchkey" elders? You have women who have lost their husbands, they have to work. How can they, at the same time, care for the older person? They call Meals on Wheels, call home four times a day, try to have a neighbor check on them. This produces tremendous stress. As the dependencies increase, as the person becomes older and you need to provide increased help to that person, you find that the level of abuse increases.

If providing these tasks are described by the caregiver as stressful, then the abuse increases. In fact, up to 17 times higher when caregivers report that doing these things for the elder is very stressful. When you ask the people do they feel burdened by having to do this, and they say yes, then you find that the abuse goes up tremendously. The most frightening thing I found strongly suggests that we have to stop this cycle of a violence. We know that when children are abused they grow up to be abusing parents. My data showed that when parents abuse their children they are likely to become the generation of abused elders.

We have to try to do something quickly to stop this problem. I titled my testimony "Elder Abuse: One-Fifth of Our Population at

Risk?", because the numbers of elderly who are vulnerable, the 75 to 85 and up group are increasing much quicker than any other age group. In fact, many of the caregivers in my study were the same age or older than the elderly victims who testified earlier today, and yet they had the responsibility of caring for still an older person.

It is critical that we provide services to these families, they cannot do it alone. These families are trying to help. It is very easy to focus on the very dramatic, the families who abuse the elders.

I implore you to be concerned about the millions of caregivers who want to do what is right for their parents, who want to provide care, who want to provide it in a loving, and humane atmosphere, but who are being pushed to the brink of abusive techniques because there are no services out there to help them with this often overwhelming task.

Thank you.

[The prepared statement of Dr. Steinmetz follows:]

PREPARED STATEMENT OF SUZANNE K. STEINMETZ, PH.D., UNVERSITY OF DELAWARE, NEWARK, DE

ELDER ABUSE: ONE-FIFTH OF OUR POPULATION AT RISK

Introduction

This title of this testimony may seem frightening and portray a society in which one out of five of our citizens—our entire elderly population—is being abused. The goal was not to frighten, it was, however an attempt to dramatize the increasing numbers of (young) elders who are facing the responsibility of providing care to a frail, vulnerable elderly parent, often without any support services. While most of these caregivers are providing care that often exceeds the heroic, the likelihood that the stress experienced by these caregivers will become overwhelming and increase the potential for abuse, if adequate support services are not provided, is extremely high.

If we consider the additional tasks which a caregiver must assume when caring for an elder and the stress that this produces, then we can understand why both caregivers and elders would resort to a variety of techniques, many of which are psychologically and physically abusive, in an attempt to regain some control over their environment. If we examine the family dynamics of these caregiving families, it is clear that caring for an elderly family member in one's home can have a tremendous negative impact not only on the elder but also on the caregiver and the caregiving family.

Since it is projected that by the turn of the century about one out of 5 citizens will be 60 or older. (Future projection suggest that those over 65, about 26 million, will number 66.6 Americans by the year 2040; while those over 85, currently about 2.2 million people, will increase to 13 million) It is clear that our society is rapidly becoming one characterized by aged children caring for frail, elderly parents. Unfortunately these are the families at risk both as caregiving perpetrators of abuse as well as dependent elderly parent who are experiencing this abuse.

Formal institutions have replaced the role of the family in religion, education, occupational training and economics. The family's principal responsibility has become the fulfillment of the expressive needs of its members. We are not only concerned with the providing care for our family members but the way in which this care is provided. We are to be congratulated for our sensitivity to elder abuse. It is measure of our concern and care for the vulnerable, not an indication of self-serving, monetary and individualistic priorities leading to a *new*, less caring treatment of our elderly kin.

In our attempts to glamorize the family of the past we have overlooked its failures and idealized its strengths. Haraven notes:

> Families shared their household space with other kin only as a last resort during period of housing shortages or severe economic constraints.

In describing the mythical family idealized in the literature, Kent suggests:

The three-generation family pictured as farm idyll is common, yet all evidence indicates that at no time in any society was a three generation family ever the common mode, and even less evidence that it was idyllic.

In contrast with family composition during earlier times the increased life expectancy has resulted in elders in their 8th, 9th, or 10th decade of life who are no longer able to live independently, and require the prolonged care of their kin. In fact, about one in 10 elders has a child over 64 years of age.

Contrary to the prevailing myth, rather than a decrease in care, adult children are probably providing more care in a considerably more humane manner, than at any other time in history. We cannot, however, rest on our laurels, not can we assume that increasing numbers of adult children will be able to continue to provide this care without adequate resources and support systems.

Relative responsibility laws

Recently, we have attempted to burden the family with more responsibilities as fiscal constraints and the current administration's reluctance to halt increasing military expenditures has resulted in decreased social services and redefinitions of eligibility for many services. The 1983 Federal Budget, for example proposed to "allow States flexibility to recover long term care (LTC) costs from beneficiary estates and relatives" by removing Federal laws and regulations that "pose barriers to State collections from beneficiaries' estates and the incomes of beneficiaries' families."

Many states had changed their relative responsibility laws with the passage of medicaid legislation, especially when this act was amended in 1977 to prohibit the requirement or even permit relatives other than a spouse or dependent child (under 18) to contribute to the costs of nursing home care.

Currently only Delaware's Relative Responsibility laws, which fulfill the requirement of "general applicability" i.e., is not limited to any one group such as those receiving medicaid benefits, has withstood legal challenge. A review of the State Relative Responsibility laws, which have been defeated or withdrawn because of technicalities, provide insight into the type of legislation that could easily become part of all state codes. The degree of liability specified in these bills, as reviewed in the Nursing Home Law Letter, illustrates the financial devastation (and the resulting stress and conflict) that might occur if such legislation is widely adopted.

Massachusetts would have required each adult child residing in the state and with a taxable income of over $20,000 to pay up to 25% of the cost of maintaining a parent. Elders whose children did not pay the amount assessed would lose entitlement to nursing home care. Drafted legislation in Mississippi proposed a sliding scale of $25 to $250 a month on income exceeding $8,000. A bill drafted in Colorado would have made children responsible for the total cost of care, thus freeing the state from all responsibility for caring for the elderly.

Should children who had been abused by their parents or who have lost contact with them, be forced to provide care to a negligent or abusive parent? Legislation in Wisconsin and Indiana did address this issue. Indiana limited responsiblity to children between 21 and 60 (thus eliminating the elderly child) and those who were provided with necessities until age 16. Wisconsin's bill specifically excluded abused children and those who had little contact with the parent after they reached adulthood.

For those who counter this concern with the belief that these laws will never be passed or will never withstand challenge, be advised that Iowa's recently enacted law was enforced for nearly a year before being overturned; Delaware's relative responsibility law remains unchallenged. Furthermore, as the population in need increases concomitantly with decreasing Federal monies, States will be forced to consider ways to reduce their expenditures. Given the incentive the technicalities can easily be overcome.

If legislation like that discussed above becomes law, family members will be responsible for the care of an elder while trying to prepare for their own old age. We may be entering an era in which we will be forced to confront the problems not only of "pauperized widows" who have exhausted their assets to care for the final illness of a sick spouse, but "pauperized adult children" who will have to spend down their own resources in order to meet the eligibility requirements of subsidized care of their recently pauperized mother.

Unfortunately, the recent interpretation of medicaid legislation ignores the length of time that one may be responsible for the care of an elderly relative and threatens to burden State judicial systems if adult children must petition the courts to be relieved (or their assessment renegotiated) of their financial responsibility.

Profile of caregivers and elders

A profile of the caregivers and elders is vital for understanding these families and their needs. First most caregivers are women, about 92 percent in my study were women. Although 8 percent of the men identified themselves as caregiver, it is clear that in these families as well as in those with female caregivers, women bear the major responsiblity for providing care. If the husband does provide tasks, most reported that their wife did the arranging for and assigning of the task, i.e., the husband may take Mother to the doctors, but the wife had decided that the visit was necessary, made the appointment, and made sure that Mother was ready at the appointed time.

With increasing numbers of women employed outside the home, we can hope for a more equal distribution of these responsibilities in the future, at least during the initial stages of caregiving. However, since women enjoy a greater life expectancy, we can predict that in most cases, women will probably bear total responsibility for this care at some point in the caregiving relationship. In my study, 32% of the caregivers were divorced or widowed at the time of the interview; it can be assumed that many more will face the loss of a husband, through death or divorce, before their caregiving responsibilities for an elderly parent are completed.

Loss of a spouse results in additional stresses for these families. A recent USA Today poll reported that household responsibilities increased for 42% of women; emotional burden increased for 45% of women and standard of living decreased for half of those making under $10,000 and 37% for those earning between $10,000 and $30,000 per year.

The above statistics are based on families facing divorce, they are probably quite similar for those whose spouse has died. In fact, one of the more striking revelations in my study was the impossibility of the wife to be allowed to grieve her husband's death. Her total energies were being devoted to helping the elderly mother deal with the loss of her son. To be able to take time for her own grieving or express her own sorrow, was seen as negatively effecting the elder and resulted in increased social and emotional dependency on the caregiver producing still further stress.

Unlike the media portrayal of the young couple who turn their back on their aging parents, these caregivers are in the latter stages of middle age or elderly themselves. Only 13% of the sample were under 40 years of age. Just under 30% were in their 40's; about half the sample were in their fifties; and 22% were over 60. In fact about 40 percent of the caregivers were themselves eligible for various "old age" benefits, i.e. over 55.

One 60 year old respondent caring for an 84 year old mother poignantly reveals her feelings;

> I don't want to consider my mother a burden. I would be glad to continue to care for her if she were not unpredictable and I could. This is the selfish part—I want to do some of the things I like to do because I am not very young either.

The elderly that they cared for constituted those in the oldest age groups—the frail elderly. Only 10 percent were under 70 years of age. Nearly 23% were in the 7th decade; 46% were in the 8th decade; and the remaining, 21% were in the 9 and 10th decade. This elderly group, reflecting both the greater life expectancy of women, and the greater likelihood of widowers to remarry younger women who will take care of them, is predominantly women; 86%

The age of the caregivers and elders is important when assessing the ability of the caregivers to render care and the support services that will be required by these families. Caregivers, often described as the "sandwich" generation, are at a stage in the life cycle when these multiple role responsibilities, leveling or diminishing incomes and preparation for retirement; and their own increasing physical limitation are likely to increase the stress levels and their ability to cope with this stress.

As could be expected, the level of the elder's dependency on the caregiver increased significantly with age. The average dependency score for elders under seventy years of age was about 42; for those ninety and over the average score 83. Earlier analysis indicated that a positive relationship existed between dependency levels and stress; and between stress and abusive Control Maintenance Techniques (CMT).

Abuse of the elderly

Although there are considerable similarities among all forms of family violence, it is necessary to distinguish the term "abuse" as it is used in connection with the elderly. Unlike most family research in which the concept of *intent* is an important component, the definition when describing caregiver/elder interaction, most include not only the intent, but the unintended outcome of certain acts. This is important, because it appears that many of the "abusive" outcomes result from attempts to

provide a level of safety for the elderly such as restraining them to prevent a fall—the outcome is bruises. Or force feeding by holding, yelling, threatening in order to prevent malnutrition which results in psychologically/emotional abuse and bruises.

Thirty percent of the caregiver in my study reported yelling at the elder in order to gain control over the elder; 17 percent force-fed or forced medication. Six percent ignored the elder usually for short periods of time when they were unable to immediately meet the elder's demands. Usual methods were to confine to a room or refuse a request for food or medication. In some cases, withholding food was for medical reasons (not providing sweets for a diabetic parent). Other caregivers honored the elders requests for these items which could be detrimental to the health, because in discussing this with the elder a consensus was reached that considering the elders age and physical condition the elder ought to be able to enjoy *today*—not be concerned about a "possible" *tomorrow*. These caregivers, as might be expected, took considerable criticism from other family members who questioned this decision. And one has to recognize that should a medical emergency arise due to these choices, charges of negligence could be leveled.

Over 8 percent of the caregivers threatened to send their elderly parent to a nursing home, an act which certainly is emotionally/psychologically abusive. Three percent hit, slapped, shook, and nearly 5 percent threatened to do so. Eight percent restrained the elder, by holding or using mechanical restraints. Overall, 12 percent of the caregivers had used physically abusive acts in an attempt to maintain control. If we consider the abuse to one's dignity as well as potential for injury resulting from forcing an elder to eat or take medicine, (or giving medicine to make them easier to control) than 23 percent (nearly 1 in 4) of the caregivers is used physically abusive ways to control their elderly parent or kin.

Characteristics of Abusive Caregivers

There appeared to be factors that characterized abusive caregivers. First, families that had high levels of family—related stress (teenagers, small children, recent death, alcoholism, another family member with physical, or emotional/mental problems, both spouses employed, single parents, financial problems) had elder abuse scores that were 5 times higher than families with low levels of family stress.

Elders who were extremely dependent on the caregiver for providing tasks of daily living (household, personal grooming and health, financial, mobility, emotional/social, and mental health)—were much more likely to be abused than elders who were less dependent. Families with high levels of stress resulting form these tasks had elder abuse scores that were 17 times higher than families with low levels of dependency related stress.

Those caregivers who reported feeling burdened by the task of caregiving used significantly more physically abusive act when attempting to maintain control over the elderly, than did caregivers who did not report feeling burdened by this responsibility.

Finally, when the sample of caregivers was divided into abusers and non-abusers, an extremely strong, highly significant finding was the elder's physical abuse of the caregiver. This clearly suggests, that elder abuse, like other forms of family violence is learned at home. If we truly want to stop elder abuse then we must stop all family violence. Just as the abused child becomes the abusing parent—the abusing parent becomes the abused elder.

Mr. PEPPER. Thank you very much, Doctor, for an excellent statement.

That concludes the direct statements by members of the panel.

Ms. Oakar, would you like to ask any questions?

Ms. OAKAR. Thank you, Senator Pepper.

I would like to ask a few questions. I appreciate the testimony of the panel.

I thought each and every one of you brought a dimension that we really needed to hear again.

Dr. Steinmetz, let me just start with you very quickly, because I know we have a limited amount of time. You mentioned that part of the problem is that we don't have enough of a support system for family members who really wanted to do the right thing. Lately, with the climate in Washington you feel as if you want to have a domestic program, but somehow that is not a priority. Do

you think there is a need that the Federal Government takes a leadership role in this issue of elderly abuse?

Dr. STEINMETZ. Absolutely. I think we have to look at it as a whole problem of educating people on the responsibilities, the care and the kinds of things you have to do. Most of my families found it overwhelming because they had no idea what would be expected of them.

We need to educate people and have community support systems where they can get education, help and counseling. We have to provide this before the abuse reaches the point that you have to take the elderly person out of the home.

We have to start telling people who are taking on this responsibility that it is going to be stressful. We need to be able to say, here are things that can help you get through it.

Unfortunately, it seems easier to say let the family do it, it is their responsibility. Then if they do it poorly we condemn them and suggust that something is wrong with the family.

Ms. OAKAR. Mr. Smith, Mrs. D., and Mrs. Hsu, if any of you would like to answer this question, please feel free. The obvious question to me is—and I think I know the answer—why couldn't you get rid of the problem? You did mention that you went to the police and they said well, do something or other.

Mr. Smith, why couldn't you get rid of your family problem? Why couldn't you just ask your son to leave the house?

Mr. SMITH. I did. I couldn't get rid of him that way. I suggested that if the grass was greener elsewhere, why not go there, but he had no intention of leaving the house at all. Instead of like this poor woman down here with only $6,000 left, that is what they did to her, if I had gotten out of that house and left him in the house, then my house is gone.

Ms. OAKAR. How did you know what to do?

In other words, how did you connect with the district attorney?

Mr. SMITH. He had been under psychiatric care. He had an imbalance, a chemical imbalance and he was supposed to take lithium. A new doctor appeared on the scene and took him off of lithium entirely. As I said, I was a pyschiatric nurse and I knew the minute he came off the lithium that my wife and I were in trouble and that is when the trouble started.

I had been waiting for 6 or 8 months for this attempt on my life. I could tell by his gestures and insulting remarks. I could tell by his mannerisms what was going to happen.

You can't go to the police and tell them I think that he is going to kill me. What good is that? You know what they tell you when you tell the police——

Ms. OAKAR. In other words, to get rid of the situation did you go to the prosecutor, physically?

Mr. SMITH. No, I didn't do anything. I had fear. You can't go to the police and tell them I think he is going to kill me. Well, wait until it happens, that is what they tell you.

Mr. HARSHBARGER. It happened like most of the elder abuse cases we get. Only finally, when his son attacked him with the hatchet, the police intervened. It takes the explicit crime being committed for that case to come to us and that is the small number we have had. Until you either have the tragic act of homicide by a parent

against a son who is abusing them or this kind of a situation where the son attacks and then the police rightfully intervene, we do not see them.

But the difficulties of protective orders and things like that, unless you can reach an agency, I think are very tricky. That is how we got involved and usually do is through this type of thing.

Ms. OAKAR. After some crisis or tragedy happens, then the police get involved.

Ms. Hsu, why was your son-in-law named the conservator of your estate? Why couldn't you change that? When he was taking—you lost everything. You went from $167,000 to $3,000 plus you were physically maimed and psychologically abused and so on. Why couldn't you get rid of that situation?

Mrs. HSU. I went to court. The court delayed the time 4 years. They didn't decide to give me the money back.

Ms. OAKAR. So it was because of the delay? How did you come into the picture Ms. Dolch?

Ms. DOLCH. The conservatorship process for Lily began in the early seventies had her son-in-law at her daughter's request was appointed her conservator. Lily, because of her husband's illness, had been under a great deal of stress and herself was in the hospital and there needed to be some property management so Lily agreed.

In the beginning it was a workable situation. Those were in the days before there were court investigators.

Ms. OAKAR. OK.

Ms. DOLCH. With the advent of court investigators, in 1977, the first court investigator made a report on Lily's case, went to Lily and interviewed her and asked her—they have a standard list of questions that they ask every conservatee.

Lily at that time said things were fine. In 1979, there was a followup visit by a court investigator, early in 1979. Lily said things were not quite so good, however, she was hopeful that they would improve.

Later on in 1979, Lily herself went to the court investigator's office, superior court, and pleaded her case. She said I need help. And it brought in——

Ms. OAKAR. A lot of people do not have the ability or wherewithal to do that on their own. They are afraid to do it, aren't they?

Ms. DOLCH. Yes. At the same time Lily was being abused by another member of her family.

Ms. OAKAR. Two separate abuses; one financial, which causes psychological scars, and the other, which caused the physical scars.

Ms. DOLCH. Yes.

Ms. OAKAR. Mrs. D., you mentioned that you went to the police and nothing happened. The only reason that you were able to get help was that coincidentally, somebody announced on a TV program that there was this service.

Otherwise, you probably would still be under that duress, wouldn't you?

Mrs. D. I probably would be dead because I was heading for a nervous breakdown and I was a very, very sick woman.

Ms. OAKAR. Are you still afraid?

Mrs. D. Yes.

Ms. OAKAR. Well, you are very courageous to be here.

Mrs. D. I am trying to get her now and I have this lawyer hired and I don't know, will I have to give her half the house or what is going to happen.

Ms. OAKAR. Mr. Chairman, and members of the committee, one of the things our bill does, which doesn't cost very much at all, is to have a national clearinghouse, as we have for child abuse and other forms of family violence. The clearinghouse would, among other things, disseminate information so that you wouldn't just have to have happened to watch a TV show.

There would be a national movement to do this. I think there is a critical need. As Dr. Steinmetz pointed out, our surveys are probably very conservative in terms of the number of instances of this kind of trauma. We would be doing great service if we did some minimal legislation that would assist the States in what they are trying to do.

Some States have nothing, but there are some more progressive States that are trying to do some things.

Ms. SATYA. I would like to add, a lot of times like in this case, it is not just that people don't have information. I think sometimes clients need advocates because a lot of times it is not just the victim that doesn't have the information or know what to do about it, it is often the professionals involved.

I have had ADA's give me misinformation because often they will go along with what the judges will usually do, not what is the law. I think advocacy programs, as was suggested, are immensely important, as are educating because I think there are no free choices if there are no choices and a lot of times for elderly people we have a real limited amount of choices they can do.

We are often talking about people with extremely low self-esteem to begin with. I think you also need to educate professionals about how to handle elder abuse. We know a lot about children and we know a lot about younger men and women but there are a lot of misconceptions about elderly people that exacerbate the problem of elderly abuse.

Ms. OAKAR. I thank the chairman and members of the committee.

I, unfortunately, have to go back to my district now to talk to among other things, older Americans. But I think the committee and the staff, Mr. Chairman, should really be commended because once again they have done a fabulous job of calling attention to the situation under your leadership. I really appreciate it. I am sure many other people do also.

Mr. PEPPER. I am a lawyer myself, so I can understand the problems that arise from these cases that have been presented here today. In the first place, you can see the need for the Legal Services Corporation that we have in existence here in the U.S. for many years until this administration has practically abolished it.

The wealthy man can hire a lawyer and deduct it from the cost of his expenses so that the taxpayers are paying his lawyer, but the poor person, who can't pay a lawyer, is not able to get access to a lawyer.

If there were a Legal Services Corporation available Mrs. Hsu there or Mrs. D. here could have gone to that agency to look at her

situation or Mr. Smith, look at his situation. Well, the first thing, you must have lawyers who know what to do to help you.

The second thing is we need courts either with special jurisdiction—it can't be handled like an ordinary case. You can't wait to bring a suit and have it tried 3 years from now as civil cases sometimes can't be tried any sooner than that.

You need a court that can get that fellow out of your home immediately. The idea that the owner of a home, who is an elderly person, has to give up his or her own home on account of an intruder who threatens that individual's life, you would think would be impossible in a civilized society like ours.

We had a case last year at one of our hearings where a lady in Boston apparently had a lovely home. Her daughter had three children and she didn't have a home. She asked the mother if she and the children could come and live with her. The mother, of course, said yes, I would be delighted to have you.

Almost immediately the daughter put a sign up in the kitchen telling the mother what hours she could be in the kitchen of her own home. The daughter parked her car behind the car of the mother in the garage so the mother couldn't get her car out without the daughter's approval. It went from bad to worse.

Finally, the mother had to sell her home to get her intruding daughter off of her premises. So the question is needing a legal body to whom we may go to get competent advice for any kind of a case.

One time it will be notifying the district attorney, notifying the police, making a suit for an injunction to get them out of the house, whatever the appropriate aid may happen to be. You must have the proper court, the proper jurisdiction, the proper lawyer to get the matter within the jurisdiction of the court. You can see the need there is for the public authority providing the mechanism.

If you have to go to see an ordinary lawyer, he will want a fee, of course, certainly in most instances, and so you can see the multiplicity of the problems presented by this situation.

Now, this lady should have stopped that fellow from stealing her fortune away from her before it was nearly all gone. Have you had a suit for the county for that man? Has he been required by the court to account to you for your money that he has done away with?

Mrs. HSU. I have brought this matter to the court to disqualify him.

Mr. PEPPER. But what about the bank money that he disposed of wrongfully that he had no right to dispose of? Did he have to pay that back?

Ms. DOLCH. That is what is at issue. That is part of the reason I was brought into the case in March, was to pursue this.

Mr. PEPPER. Now, you see it is in court. We lawyers know that you don't know how long it is going to take before the case can be resolved.

Ms. DOLCH. It has been 6 years.

Mr. PEPPER. Is she paying a lawyer to represent her?

Ms. DOLCH. Yes.

Mr. PEPPER. She doesn't have much left.

Ms. DOLCH. That is correct.

Mr. PEPPER. So that shows the need. Again, when you read in the paper that the administration is asking to cut legal services to save money, you may be taking away the property, the homes and savings of these people right here, people like them.

Mr. Smith.

Mr. SMITH. I had to sell my home $70,000 or $80,000 below the market value.

Mr. PEPPER. Why did your son-in-law have to make you sell your home? That is your home. We pride ourselves on our private property system in America, and yet an intrusive, aggressive son-in-law can come in and practically take it away from you.

We ought not to allow that to happen.

Mr. Harshbarger, you want to make any comment?

Mr. HARSHBARGER. I think that your comments on the legal profession are appropriate. I think that we as members of the organized bar ought to be doing much more to provide legal services on a pro bono basis, but, in the end, this decline in the Legal Services Corporation has been one of the most tragic comments on the legal system in this country, which is premised on equal access to the law. This is the very essence of our system.

I agree with you fully.

Mr. PEPPER. Thank you.

May I ask that all remain seated while the next witness is brought in with U.S. Marshalls. This witness is in legal custody and is brought here by legal authority but is in the custody of legal custodians.

The lady will please be brought in. We want again to thank the panel that has just left the table for their excellent testimony and for their great courage in coming here to help us.

The first witness will be Mrs. Lois A. Pope, who is in the Federal Women's Prison at Lexington, KY, who will be accompanied by Mr. Mark Toohey, Esq. of Washington, DC.

The other witness will be Joseph diGenova, Esq., the U.S. attorney for the District of Columbia.

Mrs. Pope, thank you very much for coming here today. We welcome your statement to us. I am sure it will be very helpful to us in protecting other older people in the years to come.

PANEL TWO—THE ABUSER: CONSISTING OF LOIS A. POPE, FEDERAL WOMEN'S PRISON, LEXINGTON, KY, ACCOMPANIED BY MARK TOOHEY, ESQUIRE, WASHINGTON, DC; AND JOSEPH DIGENOVA, ESQUIRE, U.S. ATTORNEY, DISTRICT OF COLUMBIA, ACCOMPANIED BY CAROL BRUCE, ASSISTANT U.S. ATTORNEY

STATEMENT OF LOIS A. POPE

Ms. POPE. Mr. Chairman, and members of the subcommittee, my name is Lois A. Pope. Sixteen years ago I started working at the U.S. Soldiers' and Airmen's Home in Washington, DC. In October 1972, I was promoted and became the personal finance officer for the home's health care facility.

There are about 350 residents of the health care facility. Many of them are elderly and too seriously ill to handle their own financial affairs. The nearest bank, although on premises, is a distance away. It is too far for most patients to walk. My job was to assist

these patients by making their bank deposits and withdrawals, cashing checks for them, buying bonds and certificates of deposit, paying their bills, helping with their income tax and generally seeing to their personal needs.

In October of last year, I admitted embezzling money belonging to some of these patients. I admitted taking $170,000 from 32 patients between March 1980 and October 1983.

How did it happen? Why did it happen? Let me first say that I care very much for those patients and I do love them. I always tried to treat them with dignity and love. I realize that I violated that trust and took advantage of them and I will spend the rest of my life trying to make it up to them.

I opened joint bank accounts for six members, who asked me to open accounts that could not be controlled by the U.S. Soldiers' Home. I did so, and because of the tremendous financial pressure and duress I was under from my husband and family, I abused the members' trust by using moneys from these accounts for the benefit of me and my family.

I also purchased money orders from members accounts and used these money orders for the benefit of me and my family. I used these moneys to buy the love and affection of my husband and children that I never had as a child.

I know now what I did was wrong and I intend to make restitution. I know I violated the trust that was given me and regret what I did. I won't be able to rest until I make it right and make restitution.

I have tried since to understand why I did something so wrong. I am 61 myself and growing older. At the time I felt these patients loved me and would want me to have the money to buy the things I needed. I think now I was simply afraid of being old and alone and unloved. Just as they were. I was trying to buy my family's affection with the things I thought they needed or wanted.

If I can offer any help to this committee to avoid this type of occurance in old age facilities around the country, it would be this:

One, employees dealing with financial matters should be bonded.

Two, residents at these facilities should have controlled accounts of not more than $10 which means any disbursement over a certain amount would have to be approved by more than one person and careful records kept.

Three, frequent audits and spot checks on all accounts.

Four, only a minimal amount of cash should be available on site.

This has been difficult for me, but I owe a large debt not only to those men, but to society for what I have done, and I pray that this opportunity will help provide a way to deter people like me in the future.

Mr. PEPPER. Thank you very much, Mrs. Pope.

Mr. Toohey, would you like to add anything to the statement Ms. Pope made?

Mr. TOOHEY. No, Mr. Chairman, except to reinforce her thanks to this committee for the opportunity to present her views and to tell this committee how this tragedy happened and hopefully suggest some things that can be done in the future. Mrs. Pope is not well. She is under medication and I ask whether she could be excused.

Mr. PEPPER. Ms. Oakar.

Ms. OAKAR. Could we ask her a quick question?

Mr. TOOHEY. Sure.

Ms. OAKAR. Ms. Pope, I think it is very important that you have come. Your point about being bonded, you were not bonded?

Ms. POPE. No, ma'am.

Ms. OAKAR. Do those people have any hope of ever getting any of the money back?

Mr. TOOHEY. If I may answer that. Mrs. Pope is currently in the process of making restitution. She is incarcerated at the moment serving a sentence at a Federal facility and she has agreed to make restitution and has already begun efforts in that regard.

Ms. OAKAR. Do you think this is a common occurrence. What happened to the older people?

Ms. POPE. Yes, ma'am. I do think so.

Ms. OAKAR. Thank you very much.

Thank you, Mr. Chairman.

Mr. PEPPER. Let me just ask two or three questions.

One is, you were working in a soldiers home?

Ms. POPE. Yes, sir.

Mr. PEPPER. Here in Washington?

Ms. POPE. Yes, sir.

Mr. PEPPER. And you do think that probably what happened in your case is happening in a great many other instances where elderly people, maybe it could be nursing homes or it could be long-term care facilities, where elderly people are, are being taken advantage of by someone?

Ms. POPE. I would say so, yes, sir.

Mr. PEPPER. So that somebody, the States preferably, should make careful provision for protecting whatever assets these people have?

Ms. POPE. That is correct, sir, yes.

Mr. PEPPER. Would you agree, Mr. Toohey?

Mr. TOOHEY. Yes, I would, Mr. Chairman.

Mr. PEPPER. I understand, Mrs. Pope, that much of the money that you spent went to purchase a house in Annapolis, a boat, a Ford pickup and a new Mark 4 Lincoln; is that correct?

Ms. POPE. Yes. The truck went to my husband.

Mr. PEPPER. And also you used some of the money to repair the roof on your home in Maryland?

Ms. POPE. Yes, sir.

Mr. PEPPER. To repair also a heating duct system—do you recall that?

Ms. POPE. Yes, sir.

Mr. PEPPER. Install a heat pump?

Ms. POPE. Yes, sir.

Mr. PEPPER. And replace the boiler?

Ms. POPE. Yes, sir.

Mr. PEPPER. Well, I think your attitude is to be commended. I do think that you will want to try to reimburse those people as much as you can because you may have taken a large part of what they have, left in the world.

Ms. POPE. I want to do it, because I won't have any peace until I do. There is an awful amount of guilt that just won't go away until this is done.

Mr. PEPPER. Did you ever get into any trouble? Were you ever guilty of any embezzlement or fraud before this?

Ms. POPE. No, sir.

Mr. PEPPER. How old were you at that time?

Ms. POPE. When this happened?

Mr. PEPPER. When you began?

Ms. POPE. I was 59.

Mr. PEPPER. And you had a home and a husband and family?

Ms. POPE. Yes.

Mr. PEPPER. But you had home pressures upon you?

Ms. POPE. Yes.

Mr. PEPPER. So the temptation was great, I guess. You had the money in your custody and the temptation was great to use it for your own pressing needs.

Ms. POPE. Yes, sir.

Mr. PEPPER. So that shows that there are likely to be cases similar in character: where people are dealing with those people because many are not able to go to a bank or post office or savings depository and they trust somebody like you who would make a favorable impression upon them and trust you to handle their money?

Ms. POPE. That is correct, sir.

Mr. PEPPER. And that is probably going on all over the country today?

Ms. POPE. I would imagine so, sir.

Mr. PEPPER. We thank you for coming and we know the embarrassment it must cause you to be here, to try to help to protect other people against the weakness that you fell into in this particular case.

I hope you can reimburse these people. I hope they are still alive and can enjoy your restoration to them and the Lord will be able to say to you what Jesus said to the offending woman, go and sin no more.

Ms. POPE. Yes, sir.

Mr. PEPPER. Thank you very much.

Mr. PEPPER. Our next witness is Mr. Joseph diGenova, U.S. attorney for the District of Columbia.

STATEMENT OF JOSEPH E. DIGENOVA

Mr. DIGENOVA. I am pleased to appear before you today to give testimony on the subject of the financial exploitation of the elderly. With me is Assistant U.S. Attorney Carol E. Bruce, who represented the Government during the sentencing of Ms. Pope who has appeared here before this morning.

I am here today, Mr. Chairman, to give you a firsthand account as a U.S. attorney of the abuses that can occur when a caretaker is given a free and unchecked control over the finances of the sickest and weakest in a home for the elderly.

I like to think of myself as a pretty tough cookie who as a result of working every day and prosecuting all sorts of crimes doesn't get affected much after a while as a result of a pretty thick outer skin. But I must say that the other day when I returned to the soldiers home to visit the wards where some of the victims who are still

alive are residing at the end of their lives, I reflected on the 40th anniversary of V-E Day that the case had once again the same distinct and real impact on me as it did on everyone who became involved with it.

There are two very vulnerable groups in our society, the very young and the very old. They are both as groups very susceptible to predatory practices by unscrupulous individuals, particularly when in cases like this they place their trust in an individual who has total control over their lives and their fortunes.

On October 1, 1984, after a grand jury investigation assisted by the U.S. Criminal Investigation Command, Lois Pope, the Patient Finance Officer of the health care facility of the U.S. Soliders' and Airmen's Home, pleaded guilty to embezzling at least $173,000 from 32 of the most decrepit and mentally infirm patients of the home between 1980 and 1983.

Those individuals are shown on the charts. I say at least $173,000 because we strongly suspect and hope to eventually prove through an ongoing audit process now that she stole an additional $177,000 in funds from these same patients through the purchase of money orders with their private funds, money orders which are now extremely difficult to trace because the bank involved in the process did not keep sequential records for purchase of money orders until July 1982, two-thirds of the way through the scheme.

On March 29 of this year the Honorable Thomas F. Hogan of the U.S. District Court for the District of Columbia sentenced Pope to serve a term of imprisonment of 2 to 6 years followed by a term of probation of 5 years and ordered the defendant to pay full restitution to the victims of the proven thefts of approximately $173,000. Pope, who is 61 years old herself, is now serving her sentence at Alderson, WV.

Let me provide you with some background information on the soldier's home and on the criminal investigation that led to the conviction and sentencing of Lois Pope. The U.S. Soldiers' and Airmen's Home—which I will refer to as the "home"—was established by an Act of Congress in 1851 to provide a retirement home for older soldiers.

I am told that Gen. Winfield Scott first conceived of the idea of an "asylum for old soldiers" when he exacted $120,000 for the proposed home from the losers as war reparations after he successfully invaded Mexico City in 1850.

Thereafter, Senator Jefferson Davis of Mississippi sponsored a bill in Congress to establish the home and over 500 acres in Northwest Washington were purchased for the home. I am also told that the home is not without its place in the history books as President Lincoln drafted the Emancipation Proclamation there and used the grounds, which are located on 300 acres now across from the Catholic University on North Capitol Street, as his summer White House.

The home is an independent Federal agency. Since the 1920's every soldier in the U.S. armed services has been assessed 25 cents a month toward the operating costs of the home. That figure jumped to 50 cents a month in 1976 and remains there today. Court martial and other military fines also go to support the home.

There is no means test for entrance into the home. A millionaire old soldier could elect to retire there if he or she so chose. An eligible retired, enlisted man simply agrees to forfeit one-quarter of his retirement check for "three squares and a cot" and he can live the rest of his natural days at the home.

Today there are an average of 2,050 residents of the home at any given time. On the grounds of the home are, among other things, dormitories, a golf course, a gymnasium, craft shops, a PX, a credit union, a branch of the American Security Bank of Washington, and a hospital known as a health care facility. The health care facility has a 350-bed capacity. The facility treats residents with minor medical complaints as well as residents who have been diagnosed as being terminally ill or physically and/or mentally incapacitated.

All residents of the home handle their own financial transactions or make private arrangements for the handling of their personal financial transactions, except some of the patients in the health care facility. Since at least 1964, a patient's finance office, has been in existence at the health care facility to assist seriously ill or incapacitated patients in the handling of their financial transactions. When the American Security branch located itself on the grounds of the Home in 1970, a more compelling reason for the patient finance office developed as the bank branch was and continues to be over 10 blocks from the health care facility and, thus, too far for most of the patients to ambulate to and from. It was envisioned that the patient finance office would assist patients in, among other things, making bank deposits, cashing their checks for them, buying savings bonds, buying certificates of deposit, buying traveler's checks, paying bills, assisting with income tax matters, and providing cash disbursements to patients as needed.

Defendant Pope, who is now 61 years old, began work at the home in 1969. Since October 29, 1972, and until her reassignment in September 1983, defendant Pope was the patient finance officer of the health care facility. Pope always had one assistant throughout her tenure with different women filling the assistant's slot.

The criminal investigation of Lois Pope began after a surprise audit of the patient finance office was conducted on September 8, 1983, by an independent accounting firm. The audit was requested by the home after the home had conducted an internal investigation of a civil complaint made by relatives of a deceased patient concerning the handling by Pope of the decedent's financial affairs. The decedent's name was Cameron Ward Frazier. He was a retired Air Force master sergeant who had entered the home in 1961. He was admitted to the health care facility in February 1980 where he remained until his death in June 1982.

During Frazier's hospitalization, Pope handled his financial affairs, including his checking and savings account at the American Security Bank branch on the ground of the home. During his stay at the hospital there were unexplained, large cash withdrawals and money orders purchased from his account. A suspicious relative hired a private investigator and lawyer and made a complaint to the home. The home's internal investigation concluded that Pope embezzled over $6,000 of the patient's money from his bank accounts out of approximately $8,000 worth of transactions that she

handled for him while he was a patient at the health care facility. The investigation revealed that Pope even cashed some of the money orders purchased with Frazier's money after Frazier's death. At the time of Frazier's death, Pope had in her possession blank savings withdrawal slips that had apparently been signed by or had the forged signature of the seriously ill Frazier. After the home conducted its internal inquiry and concluded that Pope had likely diverted the funds from Frazier for her own personal use, they ordered the surprise September 1983 audit of Pope's operation in the patient finance office.

The audit, which was conducted by the Bethesda accounting firm of Ricketts, Gregg & Fattorini, uncovered an alarming number of irregularities. The firm concluded that "the lack of proper accounting controls and the procedures used in handling and recording the transactions allow abundant opportunities for irregularities and misappropriation in the handling of patients' money and home funds by those responsible for them."

First, the audit revealed that the patient finance office utilized the "memo accounting system of recording and accounting for various types of transactions." This system was used as opposed to the standard double entry—debit and credit—system which is more commonly utilized with financial transactions. The auditors didn't object to the use of the memo accounting system method so much as to the fact that the actual recording procedures and records maintained were inadequate and often inaccurate. The memo accounting system consisted of two different records: the daily log book and the individual patient ledger sheets.

One of the most disturbing irregularities uncovered by the accountants was how Pope typically handled large receipts of funds for individual patients. As I indicated before, the patient finance office was intended to help in handling finances for patients unable to effectively handle their own financial transactions while confined to the health care facility. As time went on, the office was, to quote the auditors, supposed to "act as a link between the patient and his account at the local branch of the American Security Bank located on the home grounds." There was no apparent intention that the patient finance office would hold substantial sums of money for patients for any length of time. However, when the auditors conducted their surprise audit they found over $16,000 in cash and money orders held in white letter-sized or manila envelopes marked with individual patients' names on them.

The auditors learned that patients regularly signed for receiving substantial sums of cash or money orders at one time when, in fact, these monetary amounts were often put in envelopes for "future ostensible distribution to the patient in smaller amounts as needed."

The auditors found that many of the money orders did not indicate any disposition and were untraceable. They further found that "as the money is dispensed there are notations on the individual envelopes indicating amounts and dates of withdrawal, but no further signature is obtained indicating receipt of these smaller amounts, or are they recorded elsewhere." Worse still, the auditors discovered that "after the funds in the individual envelopes are exhausted, the envelopes are discarded. This results in no permanent,

traceable record of exactly when and in what amounts the case was actually distributed."

The accountants learned that the daily logbook was not totaled to determine if amounts entered as received equaled amounts entered as distributed. Moreover, they discovered that there was "no apparent regular supervisory review or check of any kind on the operations of the office to determine the accuracy in the handling of its transactions, how well it was or was not fulfilling its objectives, and the performance of its personnel."

Further, the accountants observed that "the physical appearance of the patient finance office, was, in our opinion, one of general disarray, in which money and personal items held for safekeeping, official records, employee personal items, and records and miscellaneous papers were indiscriminately located throughout the office. This condition * * * impedes outside supervision and review."

Some of the records they found indiscriminately located throughout the office were multiple blank and apparently signed savings withdrawal slips for patients' bank accounts, and 147 deposit slips dated from January 1982 through August 30, 1983, to defendant Pope's and her two daughters' personal bank accounts for deposits totaling $57,765.62. Defendant Pope's pay from the home for the same time period was $18,694.12. The total deposits into her bank accounts as reflected by these bank deposit slips exceeded her pay by over $39,000. Of this, over $28,000 were cash deposits and over $10,000 were checks or money orders.

Finally, the accountants found that Pope had recorded cash distributions of $300 to $1,000 a month to patients who could not possibly have used such funds and that she recorded money as going to charitable organizations that, in fact, claimed to have received no money and to a Catholic priest who had died 3 months before Pope recorded the contribution.

As a result of the audit findings, the home agreed to settle the claim made against it by the estate of Cameron Frazier. Needless to say, the governor of the home, George H. McKee, lieutenant general, USAF, retired, and the home's administrator, Robert W. Hampton, colonel, U.S.A., retired, were appalled and embarrassed to learn from the auditors the degree and breadth of Pope's apparent mishandling of patient's funds. Pope was reassigned to other duties and resigned in lieu of termination in March 1984. At that time the home promptly requested the U.S. Army Criminal Investigation Command to begin a criminal inquiry into the matter to determine the extent and scope of criminal law violations by Lois Pope in her handling of patient financial affairs.

In October 1983, the Army brought the investigation to my attention and I authorized the opening of a Federal grand jury inquiry into the case. The home cooperated fully in that investigation.

The investigation revealed that Pope, using her charm and her feigned interest in the patients' well-being, endeared herself to the weakest and most helpless of the men and women in the health care facility. Those victims still mentally competent enough to appreciate what happened to them in this case recall Pope's great personality and say that she individually persuaded them that only she knew how to handle their financial affairs in their best interest.

All of the victims had one or more bank accounts at the American Security Bank branch on the grounds of the home. By virtue of the records kept in the patient finance office, Pope knew the bank account numbers of the individual patients and their bank account balances.

Defendant Pope also knew which patients were receiving their retirement or Veterans' Administration compensation checks directly and, in certain instances, she instructed the mailroom to deliver all such checks directly to her instead of the patient.

None of the victims were in a position, mentally or physically, to monitor Pope's handling of their affairs. Pope maintained a patient ledger book in which she purportedly accounted for all expenditures by a patient. In the ledger are countless references to the purchases of cashiers' checks and money orders with little or no explanation or justification for the purchases. Yet almost all of the identified patients were so seriously ill—mentally and physically—that they were simply incapable of directing the purchase of money orders or cashiers' checks for any specific purpose. Those who are still alive and who are competent to comprehend our inquiry categorically deny ever giving Pope permission to make cash withdrawals or expenditures for her benefit from their accounts. Of this latter class of victim, some State that they trusted defendant Pope implicitly and did not question or challenge her when she would instruct them to affix their signatures to documents or ledgers where she either covered up the entries they were supposedly verifying or authorizing or where the document or ledger was otherwise blank before signing.

The criminal investigation uncovered a variety of schemes that Pope used on virtually a daily basis for at least 2½ years to bilk the hapless old soldiers out of what remaining small fortunes they possessed in the world. The two most commonly used schemes were a money order scheme and a scheme employing the use of joint bank accounts.

In the money order scheme Pope would withdraw cash from a patient's account at the American Security Bank branch and then purchase large denomination, blank, negotiable money orders. Usually, Pope would simply note money order on the patient ledger as the reason for the cash withdrawal from the patient's account without denoting the money order number or the intended purpose for which the money order was obtained, thus making it difficult if not impossible to trace the negotiated money order back to defendant Pope. The investigators found that, in fact, every questionable money order that was negotiated and that could be traced was, in fact, traced to Pope as being used for her own personal or family benefit. Indeed, at least one member of Pope's family advised us that Pope always carried big stacks of large denomination money orders in her pocketbook for her own personal use.

The second most common scheme Pope employed involved her withdrawal of cash from the American Security Bank account of a patient to purchase cashiers' checks. She would thereafter deposit in one of at least six joint bank accounts she established at the Annapolis Banking & Trust Co., in Annapolis, MD, jointly under her name and the names of at least six of the patients. Using this method, Pope stole from various patients to create these joint ac-

counts which she then depleted always and only for her own personal or family benefit. Pope also made certain that all bank balance statements and correspondence would be mailed to her own address or to her daughters' homes and not to the soldiers' home.

In one variation on these schemes Pope would often take a patient's retirement or VA check and divert it to one of the joint bank accounts or cash it to produce either a money order or a cashier's check. She would thereafter use it for her own personal or family benefit.

Permit me to share with you the specifics of how the six joint bank accounts in Annapolis were established and operated in order to show you just how insidious and calculated defendant Pope's conduct was in this case. Remember, these examples address the circumstances of only six of the 32 known victims.

Carl V. Carlson was born in Austin, TX, in 1897 and served his country in the armed services for over 17 years. On March 25, 1980, 5 months before Carlson's death, Pope opened a joint bank account with him in Annapolis and proceeded to steal over $15,000 from him. Part of the stolen money consisted of his monthly social security and VA compensation checks. She opened the account with a $10,000 deposit of Carlson's money which, 1 month later on April 28, 1980, she applied toward a downpayment on a house she purchased in Annapolis. Carlson had entered the home in 1966 and was transferred to the health care facility in 1972. At the time of the proven thefts, Carlson was described by doctors as suffering from arteriosclerosis and confusion and he was living on ward 11. Ward 11 was the ward for the most seriously ill patients at the health care facility. The remainder of his estate that was not stolen by Pope was willed to the Salvation Army when Carlson died at the age of 93.

A second victim, Adolph Twordoff, was born in Pokkan, Russia, in 1893, and served in the U.S. Armed Forces in World War I and World War II for a total of 20 years and 10 months. Twordoff was admitted to the home in 1948.

As early as 1963, when he was 70 years old, Twordoff was diagnosed as having arteriosclerotic heart disease and organic brain syndrome. When Twordoff died in 1982, his surviving relatives questioned the small amount of money in his estate. Pope personally advised them that the reason the estate was diminished was because Twordoff gave his money away to friends. In fact, Pope had stolen $16,297.60 from Twordoff between March 25, 1980, when she opened a joint bank account under her and Twordoff's name in Annapolis, and September 10, 1982. Indeed, Pope opened this account with a $10,000 deposit of Twordoff's money just as she had opened the Carlson account on the same day and in the same bank. This $10,000 was also applied to Pope's purchase in April 1980 of the Annapolis home which I already mentioned. Clearly, Pope established both accounts with the purchase of her home in mind. Twordoff died at the age of 89 on November 2, 1982. There are an additional $6,800 worth of unreasonable and unexplained money orders that were carried on the books at the patient finance office and purchased with Twordoff's funds in his declining years.

Consider another victim, Thomas Welch who was born in Clifton, Ireland, in 1885. He served in the armed services of this country

for 27 years spanning both World Wars. He was admitted to the home in 1947 and transferred to the health care facility in 1978. At the time of his transfer, doctors determined that Welch was confused, paranoid, prone to hallucination and, at times, was incoherent. He died on April 22, 1981, at the age of 96 of, among other things, chronic brain syndrome and chronic obstructive pulmonary disease. Welch lived on ward 11. Six months before his death, on October 6, 1980, Pope opened a joint bank account with Welch in Annapolis, MD, with $12,000 of Welch's personal savings. Two weeks before Welch's death, Pope diverted an additional $2,500 from Welch's private bank account to the joint account. Before and even after Welch died, Pope continued to deposit in that joint account money stolen from other patients, including $2,500 in cashiers' checks, purchased with money stolen from other patients, made payable to Welch some 6 months after Welch's death in October 1981. One month later, in November 1981, Pope closed the joint account by withdrawing all the funds totaling over $31,000. In short, Pope stole $14,500 from Welch—more than 50 percent of this man's life savings in the last 6 months of his life. Additionally, there are over $2,900 in unaccounted for money orders attributed to Welch in the patient finance office records.

A fourth victim, Ignatius J. Loughnan, was born in Ireland in 1899. He served for 22½ years in our Armed Forces spanning both World Wars. Loughnan was transferred to the health care facility in 1979 because he was no longer able to take care of himself and was suffering from generalized arteriosclerosis. On May 8, 1980, Pope, fully aware of Loughnan's deteriorating state, made a record entry that Loughnan "claims mama is Mary, from up on hill, claims going to marry her." Six months later Pope opened a joint bank account with Loughnan as the supposed joint signatory on the account. Thereafter, and until his death 6 months later, she diverted into this joint account his military retirement check and large cash withdrawals from his small bank account at the American Security Bank in amounts totaling $8,034.

Indeed, 2 days before Loughnan died, Pope diverted his last retirement check into the joint account. After Loughnan's death, Pope withdrew all the funds from the joint account for her own benefit. Moreover, Pope is suspected of having diverted an additional $10,000 from Loughnan during his short stay at the health care facility as her records show countless cash expenditures in that total amount for ward services. Loughnan was 82 years old when he died.

A fifth victim was Antonio D. Ribecco born in Ginosa, Italy, in 1888. He served in the U.S. Army during World War I and World War II for service totalling over 27 years. By 1977 Ribecco was considered to be extremely senile, with poor hearing and eyesight. He was diagnosed as having paranoid schizophrenia with organic brain syndrome. He spoke very little English. Seven months before his death and, on April 4, 1981, Pope established a joint checking account with him in Annapolis, using $7,500 of Ribecco's money from his American Security Bank account. Thereafter, Pope diverted Ribecco's Army retirement check of $513 a month into the joint account and withdrew an additional $15,000 of Ribecco's funds for deposit in the account. Pope continued to use the joint account after

Ribecco's death in November 1981. Indeed, it was from this account, fueled by Ribecco's purloined money and funds stolen from other patients that Pope purchased a new $22,697 Mark VI Lincoln in August 1982, and a boat and trailer in July 1983. She also paid for over $5,000 in home improvements out of this account. Pope stole 50 percent of Ribecco's estate in the 7 months before he died, when she stole the $10,541.58 listed in the criminal charges in this case.

Finally, the sixth example is Charles E. Henderson who was born in 1906 in Jeanette, PA. Henderson served 4½ years in the armed services during World War II. He was admitted to the home in 1960 and transferred to the health care facility in 1970. On August 10, 1981, Pope opened a joint bank account with Henderson in Annapolis, MD. At that time Henderson was diagnosed as suffering from paranoid schizophrenia, tardive dyskinesia, severe organic brain syndrome, and auditory hallucinations. Pope opened the account with $10,000 of Henderson's money taken from his American Security account. She also deposited in the account funds stolen from other patients. Pope purchased a Ford pickup truck from the account and made thousands of dollars worth of home and car repairs with the stolen moneys. She is suspected of stealing an additional $37,886 from this severely ill and incapacitated man in money orders, a phoney bond purchase, and in large unaccounted for cash withdrawals.

These six examples are offered to demonstrate in the most graphic of terms what kind of financial exploitation an elderly person can suffer at the hands of a caretaker. Obviously, the caretaker and criminal defendant in this case selected the feeblest of her elderly charges on which to prey. Indeed, we do not think it is mere coincidence that four of the six victims of the joint bank account scheme all died within 5 to 7 months of the account opening. But she also chose immigrants and the very old—those least likely to have relatives or friends who might question Pope's management of these patients' affairs. Worst still, she enjoyed essentially no supervision in a facility where not only the residents and patients have placed their lives and their trust, but also where this Congress has placed its trust.

Judge Hogan, the sentencing judge in this case, expressed grave concern about the apparent lack of accounting procedures at the home and inquired of us as to what was being done there to assure that this type of wholesale looting of patient's finances can never happen again. In a report to the court the home outlined the various internal steps that had been taken to correct the appalling state of affairs in the patient finance office. Governor McKee also advises me that two administrators who were directly responsible for supervising Mrs. Pope have retired or resigned in the wake of the audit revelations—the director of health care services and the associate administrator of the health care facility.

Naturally, the defendant attributed her criminal conduct to circumstances extraneous to any personal greed: a drunken, violent husband who demanded much of her, and an extended family which was dependent on her. The fact that a good deal of the money orders were stolen during the year after she stopped living

with her third husband, James Pope, is of no apparent significance to this defendant. But all that is irrelevant now.

Ultimately, Lois Pope blamed the home for "tempting" her with lax accounting procedures which permitted her to commit her thefts on a daily basis. How many caretakers can say the same thing? "The devil made me do it." The advanced age of the victims in these cases and the extremely dependent nature of their care all too often make the elderly easy marks for caretakers like Lois Pope.

If there is good that can come out of this unhappy case it could be the increased public awareness of the need for vigilance of the caretakers of the elderly so as to prevent the financial exploitation that we have seen in this case.

Mr. Chairman, in closing, I noted at the outset of my remarks that there are two very vulnerable groups in society, the young and the old. As I was preparing for this morning, I looked up a favorite quote of mine which happens to apply to this occasion by the great German poet Goethe.

He says age does not make us childish, as some say. It finds us true children.

I would be happy to answer any questions you might have.

Mr. PEPPER. Thank you for a very excellent statement.

Perhaps the lady—your name is what?

Ms. BRUCE. My name is Carol Bruce. I am an assistant U.S. attorney with the U.S. Attorney's Office here in Washington.

Mr. PEPPER. Would you like to add anything to Mr. diGenova's statement?

Ms. BRUCE. No. Other than to advise you, Mr. Chairman, that the pictures that we have brought today of the victims in this case were taken over 5 to 10 years ago. So even those photographs do not aptly represent today and at the time of the offenses in this case how feeble these patients truly were.

We have gone to the soldiers' home on a number of occasions and have visited the ward in question. We can only advise this committee that these patients probably were, and undoubtedly were the feeblest at the home, who were in Mrs. Pope's care.

Mr. PEPPER. Both you and Mr. diGenova have concerned me a great deal about this incident because I am so fearful that, as Mrs. Pope indicated, this sad, sordid story may be reappearing all over the country.

Somebody initiated an audit. How did that come about? Do you know?

Did somebody stumble upon something suspicious? How did you begin it?

Ms. BRUCE. Mr. Chairman, in 1982 a family complained—the family of Cameron Frazier came to the home and complained that his financial situation was not what they thought it ought to be.

Mr. PEPPER. They complained to the soldiers' home?

Ms. BRUCE. They complained to the soldiers' home. They hired an investigator, hired a lawyer, they did a private investigation and they determined through their own private investigation that many of Mr. Frazier's moneys that should have been in his account were not there.

They made a complaint to the administrator of the old soldiers' home. The governor of the home and the chief administrator ordered a discreet internal investigation to be done and they determined through that that the complaining relatives of the patient, who by then was deceased, were probably right, that Mrs. Pope had probably diverted funds from his account.

Indeed, they found out that Mrs. Pope had many blank withdrawal slips that were signed by the decedent, that she had not even submitted yet to a bank. They found that money orders had been issued in his name that she was still in custody of and that she transacted after his death.

They ordered an immediate surprise audit of her offices and it was after that surprise audit revealed even more irregularities and the possibility of more embezzlement that they referred it to the Army.

Mr. PEPPER. How can we initiate inquiries or reminders that will reach the places over this country where elderly people are confined. That would initiate the sort of inquiries and maybe the sort of audits that you had in this case.

I want the staff to take particular note of that matter. Could we write the States? Who in the States would have jurisdiction over the subject? Could we write a letter—perhaps Dr. Pingree can give good advice. We could do it through this committee itself or I am thinking of the possibility of trying to get a Federal agency that would be the appropriate one to contact all the States. At the same time, it may be the Internal Revenue Service might have information, or might stumble upon information in its work that might reveal something like this.

But I have a feeling that this is by far from being an isolated case. What do you feel?

Mr. DIGENOVA. Mr. Chairman, having dealt with this case, it is our considered opinion that probably it is not an isolated case, that there are probably a number of individuals around this country who have been similarly abused and exploited financially.

As you know from your investigations in this area, the real neglect in these situations is great and the opportunity for exploitation is equally great. A caring family had suspicions in this case with regard to Mr. Frazier, hired a private investigator and lawyer to approach the home and that is what got the investigation started.

This is very important, family members who care about their elderly family members are the most significant first line of defense against unscrupulous behavior by those in aged care facilities.

Insofar as how you might go about informing the States of this, I would defer to the expertise of the committee other than saying that this is a problem which the counsel of the various State attorneys general could be advised of by the committee since this is an area in which all the attorneys general have authority to prosecute under State and Federal law under various fraud statutes.

Obviously the Department of Health and Human Services which has responsibility for many programs in this area could equally contact those agencies. I am not speaking for them this morning, but rendering an opinion.

There are various agencies which have responsibility in this area. The fact is that increased vigilance of all individuals in this process from family members to those with responsibility for supervising financial officers in such institutions, is what is essential and I think public education through hearings such as this can perhaps serve as salutary a purpose as anything else.

Mr. PEPPER. I am more convinced that we need legislation in the States and at the Federal level to protect the elderly. I know a little bit about the American court system and judicial system, and it is departmentalized, as you know, to a great deal, so that cases come within a category.

An equity case, a law case, a criminal case, a civil case, whatever it is. I wish we could establish appropriately within the Federal system and the State system authority to deal with any aspect of the problems of the elderly who are at an age or in a physical condition where they may not be altogether self-supporting, or able to be assured of caring for themselves.

So if you need a writ to get somebody out of a house or another order, the court that has jurisdiction over child affairs could deal with any aspects of the problem so that the case won't get lost in the labyrinth of different kinds of proceedings that are appropriate to different kinds of situations.

I want us to look into that, too, but you may have benefited a large number of elderly people by telling us about this. We are going to try to alert the Attorney General, the Federal judicial system, and others to see if they can't alert the residents. Take the thousands of nursing homes, who knows, but what there are nurses or doctors or attendants that are supposedly handling the financial affairs of elderly women and men that are confined in a nursing home for a long time and growing more and more dependent, and also institutions like veterans homes and hospitals and the like.

Thank you very much, Mr. diGenova and Ms. Bruce. You did a fine job.

We have one more panel now, the Honorable David Pingree, Secretary, Department of Health and Rehabilitative Service, Tallahassee, FL, whom I know to be doing a great job in the public interest for the State of Florida; Mr. Don Duhigg, director, adult protective services, Ohio Bureau of Protective Services, Columbus OH; Ms. Frances Hill, director, protective services, Blount County, AL; Ms. Mary Joy Quinn, court investigator, San Fancisco, CA; and Ms. Von La Prade, president, De Novo, accompanied by Ms. Anita O'Riordan, codirector, ARISE, Phoenix, AZ.

First, we will hear from the Honorable David Pingree. Doctor, we welcome your statement.

PANEL THREE—THE STATE'S PERSPECTIVE: CONSISTING OF HON. DAVID PINGREE, SECRETARY, DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES, TALLAHASSEE, FL; DON DUHIGG, DIRECTOR, ADULT PROTECTIVE SERVICES, OHIO BUREAU OF PROTECTIVE SERVICES, COLUMBUS, OH; FRANCES HILL, DIRECTOR, PROTECTIVE SERVICES, BLOUNT COUNTY, AL; MARY JOY QUINN, COURT INVESTIGATOR, SAN FRANCISCO, CA; AND VON LA PRADE, PRESIDENT, DE NOVO, ACCOMPANIED BY ANITA O'RIORDAN, CODIRECTOR, ARISE (ARIZONA RESIDENTS IN SERVICE TO ELDERS), PHOENIX

STATEMENT OF DAVID PRINGREE

Mr. PINGREE. Thank you for the invitation to appear here today to discuss the nature of elderly abuse, specifically as it relates to Florida. In the 5 years since the select committee issued its report on elder abuse, Florida, like its sister States, has learned a great deal about abuse generally—the inhumanity that adults can inflict both on their children and on each other. It is a dark side of ourselves that we find difficult to face and should never accept.

In fiscal year 1980–81 Florida recorded 9,765 adult abuse referrals. This fiscal year we anticipate the figure will reach 11,300 and by 1990 more than 5,300. These referrals involve complaints relating to physical and emotional abuse as well as neglect and exploitation.

As this committee noted in its 1981 study, abuse of older people is vastly underreported. Compare elderly abuse statistics, for example, to child abuse reports. In 1980–81, Florida received over 71,000 child abuse reports' and we estimate this year that the figure will reach 100,000. These are not figures we reveal with pride, but they illustrate how child abuse reporting has come out of the shadows, allowing us to more effectively address this serious problem and all of its consequences. National studies indicate that some 4 percent of the elderly are abused or neglected, but that only about one-quarter of the cases are being reported or investigated. This morning we heard that the level may be much higher, at 12 percent. In the past 5 years there has been nothing to indicate a change in that pattern, nothing to lead us to believe that elderly abuse is diminishing or that it is being reported more readily.

I guess the bright spot would be that given all the publicity in the past year relative to child abuse and sex abuse, and with the increased reporting by people who in the past have hesitated to report child abuse, perhaps the public is becoming more aware of its responsibility to indicate to proper public firms the abuse as it occurs both with children and with adults.

Applying these very basic figures to our known referrals, we find that this year in Florida there are more than 40,000 potential elderly victims of abuse and neglect.

Our experience has shown that physical and emotional abuse takes many forms, physical beatings, improper care, lack of physical and medical care, general neglect, isolation and threats of institutionalization. I would like to point out that while elder abuse reports generally are rising, reports of incidents in institutional settings are decreasing. As with child abuse, most cases of elder abuse occur in the home or in an unregulated facility, and the abuse is

inflicted by family members, for the most part. Regulated settings like nursing homes know they are subject to frequent inspections by licensing officials and to investigations by groups in Florida such as our long-term care ombudsman councils and our human rights advocacy committees.

Sensitizing the general public to recognizing and reporting elderly abuse is extremely difficult. People are reluctant to interfere in neighbor's affairs and fear the long-term consequences of such involvement. Despite State laws that protect the anonymity of reporters of suspected abuse, they call the toll free abuse registry line only in small numbers.

We have attempted to take actions along the same lines as the Federal Government beginning in the 1970's. In 1974 the Florida Legislature passed the Developmentally Disabled Abuse Act, which included a provision for the mandatory reporting of suspected abuse, neglect, or exploitation of developmentally disabled people and established a central registry for such reports.

In 1979 that statute was amended to cover the mentally ill and in 1980 amended again to add the words, "infirmities of aging" as a type of disability under the abuse reporting law. In 1977, Florida's Adult Protective Services Act was enacted to provide for emergency removal of a person from an abusive situation and court ordered protective supervision.

A year later the legislature proposed funds for the Temporary Emergency Shelter Program. These funds are used when abuse investigation documents that the elderly or disabled adult is in danger of suffering abuse or neglect or exploitation unless an emergency placement is made. In 1983, the legal provisions related to adult protective services and disabled abuse were combined into a single statute for elderly and disabled adults.

It is intended to provide for detection and correction of abuse, neglect or exploitation among elderly or disabled people and to establish a program of protective and supportive services for them. It continues the requirement that acts of abuse must be reported. Continuous 24-hour oncall coverage is maintained wherever we have major State institutions.

In other areas of the State, coverage is provided during regular working hours Monday through Friday. However, in all areas staff are subject to call, making them available to initiate contact on referrals from the abuse registry as soon as possible. In addition, our toll-free telephone line at the abuse registry is available 24 hours a day, 7 days a week.

In January 1986 we will initiate a public awareness campaign on adult abuse. Our experience with a similar campaign related to child abuse is that reports to our abuse registry will increase by as much as 200 to 300 percent.

Today, in Florida, we have a budget in protective services of $4.8 million with the equivalent of 167 full-time counselors to deal with over 11,000 clients. This is a little over 67 cases per counselor per year. This exceeds the caseload rate of child protective service counselors and does not include work a counselor may do in a group setting where the case file reflects only a single client.

In fact, in Florida, we have sought to deal with issues of abuse by working to develop a broad-based community support system. Gov-

ernor Bob Graham and I are committed to the concept of community care for the elderly, to keeping people out of institutions wherever possible, and helping them and their families live as independently as their circumstances will permit.

To maintain the thrust of that long-term commitment, we are exploring a number of policy initiatives which include the following: increased support services to families caring for aged or disabled people, including counseling and respite care, in an effort to offset or prevent stress factors that too often lead to abuse and neglect; alcohol and drug abuse programs for families, not just individuals; background checks on all facility employees who are responsible for caring for elder disabled people in an effort to prevent people who have a history of abusive behavior from ever being allowed to care for aged or disabled persons; greater incentives and financial support for people who are willing and able to provide care for elderly people, one example in Florida being Florida's Home Care for the Elderly Program which provides a financial subsidy to families caring for aged parents or relatives; statewide attention to the problem of elder abuse and neglect through public awareness campaigns; strict enforcement of licensing provisions for those facilities providing room and board with personal care for aged or disabled people to ensure that there are no physical restraints used and that doors are not keylocked preventing freedom of movement for otherwise competent adults; priority funding of pilot programs that identify effective methods for combating abuse, neglect, or exploitation of the elderly.

We in Florida know where our elder citizens are, who they are, what their needs are, what their fears are, how well they have planned for their future, how many of them are in serious financial need. We are able to plan well for what the future may bring, and given adequate resources from the State and Federal levels, which are not there today, we should be able to address that future sensibly, but we do not know yet to what extent abuse, neglect and exploitation diminish the quality of life for the elderly and all citizens of our State. And therefore, we join you in continuing to seek answers to troubling questions surrounding the problem of elderly abuse. Thank you.

[The prepared statement of Mr. Pingree follows:]

PREPARED STATEMENT OF HON. DAVID H. PINGREE, SECRETARY, FLORIDA DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES, WASHINGTON, D.C.

Chairman Pepper, members of the committee, ladies and gentlemen. I appreciate the invitation to appear before you today to discuss the nature of elder abuse in Florida.

In the five years since the Select Committee issued its report on elder abuse, Florida, like its sister states, has learned a great deal about abuse generally—the inhumanity that adults can inflict both on their children and on each other. It is a dark side of ourselves that we find it difficult to face.

In 1980–81 Florida recorded 9,765 adult abuse referrals. In 1984–85 we anticipate that figure will reach nearly 11,300, and by 1990 our conservative estimate is more than 15,300 referrals by a projected total population of 9.8 million Floridians over the age of 18. These referrals involve physical and emotional abuse, neglect and exploitation complaints. A single complaint could represent several people if that complaint involves a group care setting.

As the Select Committee noted in its earlier study, abuse of older people is vastly under-reported. Compare elder abuse statistics, for example to child abuse reports. In 1980–81 Florida received 71,522 child abuse reports; we estimate that figure will

reach 100,000 in 1984–85. These are not figures we reveal with pride, but they illustrate how child abuse reporting has come out of the shadows, allowing us to more effectively address this serious problem and all of its consequences. National studies indicate that some four percent of the elderly are abused or neglected but that only about one quarter of the cases are being reported or investigated. In the past five years there has been nothing to indicate a change in that pattern—nothing to lead us to believe that abuse is diminishing or that it is being reported more readily.

Applying these very basic figures to our known referrals, we find that this year in Florida there are more than 40,000 potential elderly victims of abuse and neglect.

Our experience has shown that physical and emotional abuse takes many forms—physical beatings, improper care, lack of physical and medical care, general neglect, isolation, infantilisation, and threats of institutionalisation. I would like to point out here that while elder abuse reports generally are rising, reports of incidents in nursing homes are decreasing. Regulated settings like nursing homes know they are subject to frequent inspection by licensing officials and to investigation by groups like our Long Term Care Ombudsman Councils and Human Rights Advocacy Committees. This parallels the child day care picture where only about one percent of abuse cases occur in licensed child care centers. Our experience indicates abuse is much more likely to occur in unregulated care facilities and in family homes.

Besides physical abuse some people are victims of financial abuse, having their money and property stolen from them or having their funds and belongings misappropriated and misused. They may suffer violation of their rights, be forced from their homes and unwillingly placed in institutional care.

Training staff to recognize symptoms of abuse and neglect is not easy because there are few automatic indicators. People with impairments or under medication may fall down or otherwise accidentally injure themselves; even a good care giver may fail to provide a needed service on a given day; shouting, display of strong emotions, or use of harsh language may be a social or cultural norm in some families. The case worker must take great care not to inject personal attitudes and values into professional assessment of what may be an abusive situation.

If training staff is difficult, sensitizing the general public to recognizing and reporting elderly abuse is even more so. People are reluctant to interfere in their neighbors' affairs, and they fear the long-term consequences of their involvement. Despite state laws that protect the anonymity of reporters of suspected abuse, they call our toll-free abuse registry line only in small numbers.

Florida's efforts to combat and prevent elderly abuse parallel the federal recognition in the mid-seventies of adult protective services as a discrete item under Title XX of the Social Security Act.

In 1974 the Florida Legislature passed the Developmentally Disabled Abuse Act, which included a provision for the mandatory reporting of suspected abuse, neglect or exploitation of developmentally disabled people and established a central registry for such reports. In 1979 that statute was amended to cover the mentally ill, and in 1980 it was amended again to add the words "infirmities of aging" as a type of disability under the abuse reporting law.

In 1977 Florida's Adult Protective Services Act was enacted to provide for emergency removal of a person from an abusive situation and court ordered protective supervision. A year later the Legislature appropriated funds for the Temporary Emergency Shelter program and each of the 11 districts of the Department of Health and Rehabilitative Services began receiving an annual allocation for the purchase of temporary emergency shelter care. These funds are used when the abuse investigation process documents that the elderly or disabled adult is in danger of suffering abuse, neglect or exploitation unless an emergency placement is made.

In 1983 the legal provisions related to adult protective services and disabled abuse were combined into one comprehensive protective services statute for elderly and disabled adults. Its intent was to provide for detection and correction of abuse, neglect or exploitation among elderly and disabled people and to establish a program of protective and supportive services for them. This new law still requires mandatory reporting of abuse.

Florida's protective service system is available to any person who knows or has reason to suspect that an elderly or disabled person has been subjected to abuse, neglect or exploitation. Reports may be in writing. We receive many reports through citizen letters to the Governor, legislators, my own office, and I know all of you have received reports that you have forwarded to your state human services agencies for investigation. We also receive reports at our local service agencies for investigation. We also receive reports at our local service units. Our toll-free tele-

phone line at the Central Abuse Registry is available 24 hours a day, seven days a week.

Continuous, 24-hour on-call coverage is maintained wherever we have major state institutions. In other areas of the state on-call coverage is provided during regular working hours Monday through Friday. However, in all areas staff are subject to call, making them available to initiate contact on referrals from the abuse registry as soon as possible.

We are planning now the development of a public awareness campaign on adult abuse targeted for release in January. Our experience with a similar campaign related to child abuse is that reports to our Abuse Registry will increase as much as 200 to 300 percent and then level off. Without careful planning this can be a mixed blessing. While no one relishes confirming what we have long suspected about the extent of elderly abuse in our society, we nonetheless want to know about it so we can intervene and provide protection where it is needed. We also must take care that we are not so overwhelmed by response to our awareness efforts that we are unable to respond adequately to the calls we receive. These are serious allegations that require correspondingly serious staff work—careful investigation, thoughtful reporting of findings, ensuring the safety of the victim, working to change the patterns that led to the abuse.

Today in Florida we have a budget in protective services of $4.8 million with the equivalent of 167 full time counselors to deal with an average annual caseload of 11,256 clients. That is a little over 67 cases per counselors per year. This exceeds the case load rate of child protective service counselors and does not include work a counselor may do in a group setting where the case file reflects only a single client. Such an example might occur in an adult congregate living facility where the worker goes in to investigate an abuse allegation involving one resident but finds that all residents suffer the same abuses.

Our Aging and Adult Services director has asked our evaluation unit to conduct an in-depth review of Florida's adult protective services program beginning in July. Concurrently a work group, assisted by staff from the Health and Rehabilitative Services Committees of the Florida House and Senate and by legal counsel, will review Florida's adult protective services law for possible revision. Together these work products should provide the visibility and data needed to assist us in shaping our program to meet the need we anticipate.

In our public awareness effort we will be seeking to:

provide basic information on the facts of abuse and neglect;

encourage victims and their families to seek help;

publicize the benefits of multidisciplinary cooperation;

link abuse of the elderly and disabled to other forms of family violence to generate comprehensive services for all forms of domestic violence;

sensitize the community to the special problems of the very old, and

educate the media about abuse of aged or disabled adults and the impact of abuse on the community.

In Florida we have sought to deal with issues of abuse by working to develop a broad-based community support system. Governor Graham is committed to the concept of community care for the elderly, to keeping people out of institutions wherever possible and helping them and their families live as independently as their circumstances will permit.

To maintain the thrust of that long-term commitment we are exploring a number of policy initiatives. They include:

increased support services to families caring for aged or disabled people, including counseling and respite care, in an effort to offset or prevent stress factors that too often lead to abuse and neglect;

alcohol and drug abuse programs for families in addition to those already being provided just to individuals;

background checks on all facility employees who are responsible for caring for aged or disabled people in an effort to prevent people who have a history of abuse behavior from being allowed to care for aged or disabled persons. Our study of our own background check requirements revealed inconsistencies even among similar programs, and we are now working to establish a core set of background check requirements that will enhance staffing quality;

greater incentives and financial support for people who are willing and able to provide care for elderly people. One example is Florida's Home Care for the Elderly program which provides a financial subsidy to families caring for aged parents of relatives;

nationwide attention to the problem of elder abuse and neglect through public awareness campaigns;

strict enforcement of licensing provisions for those facilities providing room and board with personal care for aged or disabled people to ensure that there are no physical restraints used and that doors are not key-locked, preventing freedom of movement for otherwise competent adults;

establish a priority for demonstration funding, model programs that identify effective methods for combating abuse, neglect or exploitation of the elderly;

cooperative agreements and inter-program efforts such as cross-program training to enhance recognition of abuse and neglect indicators by all who may come in contact with it and to improve the communication and coordination of activities related to adult protective services.

Florida has a good understanding of its elderly population. We have recently completed a major study call the Long Term Project aimed at how to deal with specific needs of Florida's elderly. The Governor's Committee on Aging issued a report in January on Florida's pathways to the future in elder issues. My department's long-range planning document has as one of its 12 goals the improvement and expansion of elder programs, and elder issues are a cornerstone of the State Plan that Governor Graham this year presented to the Legislature. We know where our elder citizens are, who they are, what their needs are, what their fears are, how well they have planned for their futures, how many of them are in serious financial need. We are able to plan well for what the future may bring, and given the proper resources from the state and federal level, we should be able to address that future sensibly. But we do not know yet to what extent abuse, neglect and exploitation diminish the quality of life in our state. We join you in continuing to seek an answer to that terrible question.

Mr. PEPPER. Thank you very much, Doctor.

Now Mr. Don Duhigg. We are pleased to hear from you.

STATEMENT OF DON DUHIGG

Mr. DUHIGG. Mr. Chairman and members of the Select Committee on Aging, thank you for the opportunity to testify at this hearing on elder abuse. In my testimony this morning, I will highlight three major areas, how we are fairing in Ohio, some of our progress and problems, what we need to accomplish, our objectives, and reforms that we would like to suggest for your consideration.

On November 15, 1981, Ohio enacted its adult protective services law. The law has been instrumental in increasing awareness on the part of social, health, mental health, and legal systems throughout the State about the existence of an elderly population in Ohio which is in need of protective services.

One thousand, five hundred and eleven elderly individuals—and this is an unduplicated count—were reported to be abused or neglected or exploited in the 3-month period, October, November, and December 1984; 195 reports were reports of alleged abuse; 195 were reports of alleged exploitation; 1,182 reports alleged neglect, including self-neglect; 221 reports were considered to be an emergency and required a response within 24 hours; 922 elderly individuals were determined not be in need of protective services; 742 agreed or consented to receive protective services voluntarily.

Twelve petitions were presented to the probate court; one for an investigatory temporary restraining order. This is where people interfere with the carrying out of an investigation. Seven were for the provision of protective services on an emergency basis. Two were for the provision on a nonemergency basis, and two were to obtain temporary restraining orders to prevent interference by someone other than the adult who consented to receive services.

The law has been instrumental in clearly designating the 88 county departments of human services, which agencies are supervised by the Ohio Department of Human Services, as the local

agency with authority and responsibility to investigate all reports of suspected abuse, neglect, or exploitation, and to provide or arrange for the provision of protective services.

The law has been instrumental in providing new ways for public and designated private agencies to help the elderly resolve their problems in a less restrictive way than by means of civil commitment or guardianship proceedings. The major problem that has hampered the effectiveness of the law has been an absence of any funding provision. Until the present time, the counties have been required to implement the law by reprioritizing its share of title 20 block grant social service funds.

This was a difficult challenge for two major reasons. County departments had historically committed some of their social service funds in purchase of service contracts, which meant that they were faced with the prospect of putting some providers of purchase service out of business in order to purchase adult protective services. And, two, title XX funds were being reduced in the early eighties when the law took effect.

The Department has developed a 3-year plan for adult services with the assistance of a consultative contract with the Federation for Community Planning in Cleveland.

In the plan we have identified many tasks that need to be completed. The most critical need seems to be raising the funding level. The department is actively seeking State funds for adult services programs and encouraging and assisting county departments to develop local funding. Nonetheless, the rapid growing elder population and limited State and local recourses convince us of the need to advocate for Federal funding for services for the elderly.

The funding needs for adult protective services go beyond operationalizing core protective services; namely, receiving reports, investigating, multidisciplinary assessments, public information education and court-related activities. To provide effective protective services, the county department must have available a broad continuum of services. It is not enough to determine that an elder individual is in need of protective services. The agency must decide what services on the continuum—from in home services to community-based placement to possible emergency shelter—are needed and order these services to be delivered in the amount required.

What happens, unfortunately, is sometimes needed services are not available or are available in a far smaller quantity than is required. In addition to obtaining funds, and in fact contingent upon it, we need to increase the number of county and State adult protective services staff; to implement procedures for regular monitoring of adult protective service provisions; to bring about a high degree of networking between the public and voluntary sector in each community, and to initiate a major public education campaign.

In conclusion, we would like to suggest for your consideraiton the following reforms: One, the possibility of creating a national Elder Abuse Prevention and Treatment Act comparable to the Federal Child Abuse Prevention and Treatment Act, which I believe may be House Bill 1674. Two, the possibility of creating Federal guidelines for the development of a coordinated approach to protecting abused elderly between Older Americans Act funded program and

programs funded by the title XX block grant; three, the possibility of allowing Medicaid funds to be used for the provision of in home services as a part of the protective service continuum of services; four, the possibility of expanding funding for research and demonstation projects devoted to elder abuse prevention and treatment.

The fifth and final point is the possibility of creating funding for training of both public agency staff as well as volunteer agency staff involved in providing protective services under the continuum of adult services. Thank you.

[Material submitted by Mr. Duhigg follows:]

Submitted by Mr. Don Duhigg, Ohio Department of Human Services, Division of Family and Children's Services, Columbus, Ohio

CROSS REFERENCES

Subrogation of third-party recoveries, OAC 5101:1-1-16

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65 App(2d) 96, 416 NE(2d) 629 (1979), Padgett v Dept of Public Welfare. The statutory right of subrogation granted to the Ohio department of public welfare under 5101.58 does not require any payment by the subrogee, the Ohio department of public welfare, of a medicaid recipient's attorney's fees in a successful personal injury action.

65 App(2d) 96, 416 NE(2d) 629 (1979), Padgett v Dept of Public Welfare. When the statute which creates the right of subrogation to the Ohio department of public welfare does not specifically grant a right to deduct attorney's fees and expenses from the subrogated amount payable to the department of public welfare, a deduction for attorney's fees and expenses cannot be made by the subrogee.

5101.59 Automatic assignment of rights to medical support

(A) The application for or acceptance of aid under sections 5107.02 to 5107.15, Chapter 5111., or Chapter 5113. of the Revised Code constitutes an automatic assignment of certain rights to the department of public welfare. This assignment includes the rights of the applicant or recipient and also the rights of any other member of the assistance group for whom the applicant or recipient can legally make an assignment.

Pursuant to this section, the applicant or recipient assigns to the department any rights to medical support available to him or for other members of the assistance group under an order of a court or administrative agency, and any rights to payments from any third party liable to pay for the cost of medical care and services arising out of injury, disease, or disability of the applicant or recipient or other members of the assistance group.

Medicare benefits shall not be assigned pursuant to this section. Benefits assigned to the department by operation of this section are directly reimbursable to the department by liable third parties.

(B) Refusal by the applicant or recipient to cooperate in obtaining medical support and payments for himself or any other member of the assistance group renders the applicant or recipient ineligible for assistance, unless cooperation is waived by the department. Eligibility will continue for any individual who cannot legally assign his own rights and who would have been eligible for assistance but for the refusal to assign his rights or to cooperate as required by this section by another person legally able to assign his rights.

If the applicant or recipient or any member of the assistance group becomes ineligible for aid under sections 5107.02 to 5107.15, Chapter 5111., or Chapter 5113. of the Revised Code, the department shall restore to him any future rights to benefits assigned under this section.

The rights of assignment given to the department under this section do not include rights to support assigned under section 5107.07 or 5113.04 of the Revised Code.

HISTORY: 1981 H 694, eff. 11-15-81

PROTECTIVE SERVICES FOR ADULTS

5101.60 Definitions

As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by himself or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents him from providing for his own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. It does not include institutions or facilities licensed by the state, or facilities in which a person resides as a result of voluntary, civil, or criminal commitment.

(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction.

(D) "Court" means the probate court in the county where an adult resides.

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to himself or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or his resources for monetary or personal benefit, profit, or gain.

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that he lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning his person or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for himself the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

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(N) "Protective services" means services provided by the county department of welfare or its designated agency to an adult who has been determined by evaluation to require them for the prevention, correction, or diminishment of an act of or well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housingrelated services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

HISTORY: 1981 H 694, eff. 11-15-81

3101.61 Duty to report suspected abuse of adult

(A) Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any employee of an ambulatory health facility as defined in section 1729.01 of the Revised Code, any employee of a home health agency as defined in section 1739.01 of the Revised Code, any employee of an adult foster care facility as defined in section 3103.30 of the Revised Code, any peace officer, coroner, clergyman, any employee of a community mental health facility as defined in section 1739.01 of the Revised Code, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of welfare. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if he is known;

(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 3101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this section.

(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 3101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized by the department to receive information contained in the report, and to legal counsel for the adult.

HISTORY: 1981 H 694, eff. 11-15-81

Penalty, 3101.99(D)

3101.62 County department of welfare to investigate

(A) The county department of welfare shall be responsible for the investigation of all reports provided for in section 3101.61 of the Revised Code and evaluating the need for and, to the extent of available funds, provide or arrange for the provision of protective services. The department may designate another agency to perform the department's duties under this section.

(B) Investigation of the report provided for in section 3101.61 of the Revised Code shall be initiated within twenty-four hours after the department receives the report if any emergency exists; otherwise investigation shall be initiated within three working days.

(C) Investigation of the need for protective services shall include a face-to-face visit with the adult who is the subject of the report, preferably in his residence, and consultation with the person who made the report, if feasible, and separate or persons who have information about the adult's alleged abuse, neglect, or exploitation.

(D) The department shall give written notice of the intent of the investigation and an explanation of the notice in language reasonably understandable to the adult who is the subject of the investigation, at the time of the initial interview with that person.

(E) Upon completion of the investigation, the department shall determine from its findings whether or not the adult who is the subject of the report is in need of protective services. The department shall write a report which confirms or denies the need for protective services and states why it reached this conclusion.

HISTORY: 1981 H 694, eff. 11-15-81

3101.63 Court may restrain interference

If, during the course of an investigation conducted under section 3101.62 of the Revised Code, any person, including the subject of the investigation, denies or obstructs access to the residence of the adult who is the subject of a report filed pursuant to section 3101.61 of the Revised Code, the county department of welfare may file a petition in court for a temporary restraining order to prevent the interference or obstruction. The court shall issue a temporary restraining order to prevent the interference or obstruction if it finds there is reasonable cause to believe that the person who is the subject of the in-

vestigation is being or has been abused, neglected, or exploited and access to the person's residence has been denied or obstructed. Such a finding is prima facie evidence that immediate and irreparable injury, loss, or damage will result, so that notice is not required. After obtaining an order restraining the obstruction of or interference with the access of the protective services representative, the representative may be accompanied to the residence by a peace officer.

HISTORY: 1981 H 694, eff. 11-13-81

5101.64 Protective services

Any person who requests or consents to receive protective services shall receive such services only after an investigation and determination of a need for protective services, which investigation shall be performed in the same manner as the investigation of a report pursuant to sections 5101.62 and 5101.63 of the Revised Code. If the person withdraws consent, the protective services shall be terminated.

HISTORY: 1981 H 694, eff. 11-13-81

5101.65 Department may petition court

If the county department of welfare determines that an adult is in need of protective services and is an incapacitated person, the department may petition the court for an order authorizing the provision of protective services. The petition shall state the specific facts alleging the abuse, neglect, or exploitation and shall include a proposed protective service plan. Any plan for protective services shall be specified in the petition.

HISTORY: 1981 H 694, eff. 11-13-81

5101.66 Procedures

Notice of a petition for the provision of court-ordered protective services as provided for in section 5101.65 of the Revised Code shall be personally served upon the adult who is the subject of the petition at least five working days prior to the date set for the hearing as provided in section 5101.67 of the Revised Code. Notice shall be given orally and in writing in language reasonably understandable to the adult. The notice shall include the names of all petitioners, the basis of the belief that protective services are needed, the rights of the adult in the court proceedings, and the consequences of a court order for protective services. The adult shall be informed of his right to counsel and his right to appointed counsel if he is indigent and if appointed counsel is requested. Written notice by certified mail shall also be given to the adult's guardian, legal counsel, caretaker, and spouse, if any, or if he has none of these, to his adult children or next of kin, if any, or to any other person as the court may require. The adult who is the subject of the petition may not waive notice as provided in this section.

HISTORY: 1981 H 694, eff. 11-13-81

5101.67 Hearing; order; placement; renewal or modification

(A) The court shall hold a hearing on the petition as provided in section 5101.65 of the Revised Code within fourteen days after its filing. The adult who is the subject of the petition shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses. The adult shall be represented by counsel unless the right to counsel is knowingly waived. If the adult is indigent, the court shall appoint counsel to represent him. If the court determines that the adult lacks the capacity to waive the right to counsel, the court shall appoint counsel to represent his interests.

(B) If the court finds, on the basis of clear and convincing evidence, that the adult has been abused, neglected, or exploited, is in need of protective services, and is incapacitated, and no person authorized by law or by court order is available to give consent, it shall issue an order requiring the provision of protective services only if they are available locally.

(C) If the court orders placement under this section, it shall give consideration to the choice of residence of the adult. The court may order placement in settings which have been approved by the department of public welfare as meeting at least minimum community standards for safety, security, and the requirements of daily living. The court shall not order an institutional placement unless it has made a specific finding entered in the record that no less restrictive alternative can be found to meet the needs of the individual. No individual may be committed to a hospital or public hospital as defined in section 5122.01 of the Revised Code pursuant to this section.

(D) The placement of an adult pursuant to court order as provided in this section shall not be changed unless the court authorizes the transfer of placement after finding compelling reasons to justify the transfer. Unless the court finds that an emergency exists, the court shall notify the adult of a transfer at least thirty days prior to the actual transfer.

(E) A court order provided for in this section shall remain in effect for no longer than six months. Thereafter, the county department of welfare shall review the adult's need for continued services and, if the department determines that there is a continued need, it shall apply for a renewal of the order for additional periods of no longer than one year each. The adult who is the subject of the court-ordered services may petition for modification of the order at any time.

HISTORY: 1981 H 694, eff. 11-13-81

5101.68 Interference by another; procedure

(A) If an adult has consented to the provision of protective services but any other person refuses to allow such provision, the county department of welfare may petition the court for a temporary restraining order to restrain the person from interfering with the provision of protective services for the adult.

(B) The petition shall state specific facts sufficient to demonstrate the need for protective services, the consent of the adult, and the refusal of some other person to allow the provision of these services.

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(C) Notice of the petition shall be given in language reasonably understandable to the person alleged to be interfering with the provision of services.

(D) The court shall hold a hearing on the petition within fourteen days after its filing. If the court finds that the protective services are necessary, that the adult has consented to the provisions of such services, and that the person who is the subject of the petition has prevented such provision, the court shall issue a temporary restraining order to restrain the person from interfering with the provision of protective services to the adult.

HISTORY: 1981 H 694, eff. 11-13-81

5101.69 Emergency provision for protective services

(A) Upon petition by the county department of welfare, the court may issue an order authorizing the provision of protective services on an emergency basis to an adult. The petition for any emergency order shall include:

(1) The name, age, and address of the adult in need of protective services;

(2) The nature of the emergency;

(3) The proposed protective services;

(4) The petitioner's reasonable belief, together with facts supportive thereof, as to the existence of the circumstances described in divisions (D)(1) to (3) of this section;

(5) Facts showing the petitioner's attempts to obtain the adult's consent to the protective services.

(B) Notice of the filing and contents of the petition provided for in division (A) of this section, the rights of the person in the hearing provided for in division (C) of this section, and the possible consequences of a court order, shall be given to the adult. Notice shall also be given to the spouse of the adult or, if he has none, to his adult children or next of kin, and his guardian, if any, if his whereabouts are known. The notice shall be given in language reasonably understandable to its recipients at least twenty-four hours prior to the hearing provided for in this section. The court may waive the twenty-four hour notice requirement upon showing that:

(1) Immediate and irreparable physical harm to the adult or others will result from the twenty-four hour delay; and

(2) Reasonable attempts have been made to notify the adult, his spouse, or, if he has none, his adult children or next of kin, if any, and his guardian, if any, if his whereabouts are known.

Notice of the court's determination shall be given to all persons receiving notice of the filing of the petition provided for in this division.

(C) Upon receipt of a petition for an order for emergency services, the court shall hold a hearing no sooner than twenty-four and no later than seventy-two hours after the notice provided for in division (B) of this section has been given, unless the court has waived the notice. The adult who is the subject of the petition shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses.

(D) The court shall issue an order authorizing the provision of protective services on an emergency basis if it finds, on the basis of clear and convincing evidence, that:

(1) The adult is an incapacitated person;

(2) An emergency exists;

(3) No person authorized by law or court order to give consent for the adult is available or willing to consent to emergency services.

(E) In issuing an emergency order, the court shall adhere to the following limitations:

(1) The court shall order only such protective services as are necessary and available locally to remove the conditions creating the emergency, and the court shall specifically designate those protective services the adult shall receive;

(2) The court shall not order any change of residence under this section unless the court specifically finds that a change of residence is necessary;

(3) The court may order emergency services only for fourteen days. The department may petition the court for a renewal of the order for a fourteen-day period upon a showing that continuation of the order is necessary to remove the emergency;

(4) In its order the court shall authorize the director of the department or his designee to give consent for the person for the approved emergency services until the expiration of the order.

(5) The court shall not order a person to a hospital or public hospital as defined in section 5122.01 of the Revised Code.

(F) If the department determines that the adult continues to need protective services after the order provided for in division (D) of this section has expired, the department may petition the court for an order to continue protective services, pursuant to section 5101.65 of the Revised Code. After the filing of the petition, the department may continue to provide protective services pending a hearing by the court.

HISTORY: 1981 H 694, eff. 11-13-81

5101.70 Determination of ability to pay

(A) If it appears that an adult in need of protective services has the financial means sufficient to pay for such services, the county department of welfare shall make an evaluation regarding such means. If the evaluation establishes that the adult has such financial means, the department shall initiate procedures for reimbursement pursuant to rules promulgated by the department. If the evaluation establishes that the adult does not have such financial means, the services shall be provided in accordance with the policies and procedures established by the department of public welfare for the provision of welfare assistance. An adult shall not be required to pay for court-ordered protective services unless a court determination upon a showing by the department that the adult is financially able to pay and the court orders the adult to pay.

(B) Whenever the department has petitioned the court to authorize the provision of protective services and the adult who is the subject of the petition is indigent, the court shall appoint legal counsel.

HISTORY: 1981 H 694, eff. 11-13-81

5101.71 County to implement; training

(A) The county department of welfare shall be responsible for implementing sections 5101.60 to 5101.71 of the Revised Code, and shall employ persons with experience or expertise in providing protective services for adults to provide ongoing comprehensive formal training to department representatives and other persons authorized to implement sections 5101.60 to 5101.71 of the Revised Code. Training shall not be limited to the procedures for implementing section 5101.62 of the Revised Code. The department shall bear the cost of the training.

(B) The social services advisory committee of the department of public welfare shall advise the county departments of welfare regarding implementation of sections 5101.60 to 5101.71 of the Revised Code.

HISTORY: 1981 H 694, eff. 11-13-81

5101.72 Third party liability for medicaid reimbursement

Upon the request of the department of public welfare, any third party shall cooperate with the department in identifying individuals for the purpose of establishing third party liability pursuant to Title XIX of the Social Security Act, as amended. The department of public welfare shall limit its use of information gained from third parties to purposes directly connected with the administration of the medicaid program. No third party shall disclose to other parties or make use of any information regarding recipients of aid under sections 5107.02 to 5107.15 or Chapter 5111. of the Revised Code that it obtains from the department of public welfare, except in the manner provided for by the department of public welfare in its administrative rules. Any information provided by a third party to the department of public welfare shall not be considered a violation of any right of confidentiality or contract that the third party may have with covered persons including, but not limited to, contractors, beneficiaries, heirs, assignees, and subscribers. The third party is immune from any liability that it may otherwise incur through its release of information to the department of public welfare.

HISTORY: 1981 H 694, eff. 11-13-81

5101.99 Penalties

Whoever violates division (A) or (B) of section 5101.61 of the Revised Code shall be fined not more than five hundred dollars.

HISTORY: 1981 H 694, eff. 11-13-81

Note: Former 5101.99 repealed by 123 v 833, eff. 7-1-34; 1953 H 1.

Chapter 5103

DIVISION OF SOCIAL ADMINISTRATION

5103.02 Definitions
5103.03 Powers and duties of department in certification of institutions for children
5103.06 Words of division of social administration
5103.15 Placing of child in public or private institution; agreements to be in writing
5103.16 Placing of children; assumption of responsibility for expenses
5103.30 Definitions

CROSS REFERENCES

Adult foster care facilities, OAC Ch 3101:3-19

5103.02 Definitions

As used in sections 5103.03 to 5103.19 of the Revised Code:

"Institution" or "association" includes any incorporated or unincorporated organization, society, association, or agency, public or private, which receives or cares for children for two or more consecutive weeks; any individual who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless he is related to them by blood or marriage; and any individual not in the regular employ of a court, or of an institution or association certified in accordance with section 5103.03 of the Revised Code, who in any manner becomes a party to the placing of children in foster homes, unless he is related to such children by blood or marriage, or is the appointed guardian of such children; provided, that any organization, society, association, school, agency, child guidance center, or children's clinic licensed, registered, approved, operated under the direction of, or otherwise certified by the department of education, a local board of education, the department of youth services, the department of mental health, or the department of mental retardation and developmental disabilities, or any individual who provides care for only a single-family group, placed there by their parents or other relative having custody, shall not be considered as being within the purview of these sections.

HISTORY: 1981 H 440, eff. 11-23-81
1980 H 900; 1972 H 494; 1970 H 970; 1969 S 105; 130 v H 299; 125 v 473; 1953 H 1; GC 1352-6

CROSS REFERENCES

Definitions of general use applicable to Chapter 3101:3-3 through -11, OAC 3101:3-3-01

ADULT PROTECTIVE SERVICES REPORT
October-December 1984

Effective October 1, 1984, the Ohio Department of Human Services implemented a quarterly report from the county departments of human services to provide a limited amount of information relative to statewide needs for adult protective services. The design of the adult protective services report (ODHS 4287) recognized the mandates of ORC Sections 5101.60 to 5101.71 to the county departments of human services. Consequently, the adults to be counted for this report are persons sixty years of age and older.

The attached Tables 1, 2, and 3 were compiled from data submitted on the ODHS 4287 reports for the October-December 1984 quarter. Table 4 was compiled from data submitted on the ODHS 4281, Recipients of Direct Delivered Title XX Services for the months of October, November, and December. On Tables 1, 2, and 4 the counties are listed in three population categories: counties with population over 200,000, population 50,000 to 200,000, and population under 50,000.

Table 1, Reports and Investigations of Adult Abuse, Neglect, and Exploitation (A, N, E) lists in the first four columns the number of reports received by the county departments of human services alleging abuse, neglect, or exploitation of a person over sixty years of age. Statewide 1,572 reports were received with 195 (12.4%) alleging abuse, 1,182 (75.2%) neglect, and 195 (12.4%) exploitation.

The second four columns of Table 1 list the number of these reports in each category--abuse, neglect, exploitation--and the total number that were judged to be an emergency situation. Also included for each county is the percentage of the reports that were considered an emergency. Statewide 221, or 14.0%, of the reports were considered an emergency situation.

The count of individuals is the unduplicated count for the quarter of persons for whom reports were received. More than one report may be received alleging victimization of the same individual; also, one report may be received alleging victimization of more than one individual. The percentage column merely indicates the ratio of individuals to reports. For fifty-two of the counties the number of individuals equaled the number of reports, or 100%, indicating neither reports received alleging victimization of more than one individual nor multiple reports of victimization of the same individual. Statewide 1,572 reports were received concerning 1,511 individuals.

It is not expected that the number of investigations will equal the number of individuals for whom reports were received each quarter. Some individuals will not be located. Time will not permit completion of the investigations of all reports received and included on the ODHS 4287; therefore, there will be some carry-over from quarter to quarter. There may be some duplication in counting the number of individuals if more than one investigation was completed during the quarter. Over a period of time the number of reports and investigations should be nearly equal. Statewide 1,270 investigations were completed by the county departments of human services and 129 were completed by designated agencies, representing 84.1% and 8.6% respectively of the 1,511 individuals counted during the quarter.

Table 2, Evaluations of Reports Alleging Adult Abuse, Neglect, and Exploitation (A, N, E). The total number of investigations completed by the county departments of human services and by designated agencies are listed in the first column of Table 2. The second column lists the total number of individuals

for whom an evaluation was made as to whether protective services are needed or not needed during the quarter. Because of carry-over from one quarter to another, the percentage is expected to only approximate 100.

Of the 1,377 individuals for whom evaluations were reported, 455 (33.0%) were evaluated as not in need of protective services. These adults may need assistance or specific services for which referral or planning was arranged or provided, but they were not deemed in need of protective services. A total of 922 (66.0%) individuals were evaluated to need protective services. Of the 922, 96 (10.4%) were in need of protection from abuse, 718 (77.9%) neglect, and 108 (11.7%) exploitation. The category (A,N,E) in which an individual is counted in this section is based upon the evaluation and may differ from that in which the same individual was counted in reports received or investigations reported.

Limitations of a quarterly, manual report preclude complete or detailed information on the acceptance or refusal of protective services by an individual over a period of time. Items on the ODHS 4287 were intended to capture only initial decisions of competent adults and serve as a rough measure of the acceptance or rejection of services. Statewide 742 adults agreed to protective services--80.5% of the number reported in need of protective services.

Table 3. Court Petitions Filed and Reports to MR/DD. During the October-December quarter only one petition was filed with the courts pursuant to ORC 5101.63 for a temporary restraining order to prevent interference with the investigation of a report of adult abuse, neglect, or exploitation. A total of 7 petitions were filed pursuant to ORC 5101.69 for the provision of protective services on an emergency basis and 2 petitions filed pursuant to ORC 5101.65 for the provision of routine protective services. For a temporary restraining order to prevent interference with the provision of protective services, 2 petitions were filed pursuant to ORC 5101.68. Statewide a total of 12 petitions were filed during the quarter.

A total of 10 reports were made to the Department of Mental Retardation and Developmental Disabilities in compliance with ORC 5123.61, because the adult subject of a report of abuse, neglect, or exploitation was believed to be a mentally retarded adult.

Table 4. Recipients of Title XX Direct Delivered Adult Protective Services, October-December 1984. Table 4 is included in recognition that the information collected on the ODHS 4287 reports and presented in Tables 1, 2, and 3 represents only a part of the adult protective services programs of the county departments of human services. Table 4 provides limited data on the number of recipients of crisis intervention and continuing protective services provided adults of all ages directly by the county departments of human services. There is some duplication in these figures as indicated by the note concerning the compilation of the data following Table 4. Recipients of purchased Title XX services are not included.

Bureau of Reports and Statistics
April 5, 1985

APPENDIX B

RESULTS OF THE SURVEY ON ADULT SERVICES CONDUCTED BY THE FEDERATION FOR COMMUNITY PLANNING OF SELECTED COUNTY DEPARTMENTS OF HUMAN SERVICES FOR THE OHIO DEPARTMENT OF HUMAN SERVICES

MAP OF COUNTY DEPARTMENTS OF HUMAN SERVICES

County Departments of Human Services

Selected for survey (22 counties)

* Actually surveyed (17 counties)

	ODPW DISTRICT OFFICES
I	Toledo District Office
II	Cleveland District Office
III	Cincinnati District Office
IV	Columbus District Office
V	Canton District Office

CHILDREN SERVICES

Separate Children Services Boards (40 counties)

Combined Children Services Within County Welfare Departments (48 counties)

SURVEY QUESTIONS

1) Identify the specific adult services provided through your agency. Indicate if service provision is direct or through contract with another agency. Provide the following information for each service relevant to the most recent fiscal year: funding, staffing, and number of clients served. Profile the typical client served for each service.

2) Prioritize the above services based upon the needs of adults in your county, beginning with the service having highest priority.

3) Identify which, if any, of the above services should be expanded in your county based upon perceived adult population need. Indicate the criterion on which you are making this judgment (e.g., community needs assessment, personal impression). Identify the extent of additional number of clients to be served annually.

4) Identify which, if any, adult services not currently provided by your county agency would be provided if adequate funding were available. Indicate the criterion on which the need for these services is based. For each service, estimate funding and staffing requirements as well as number of clients to be served annually. Profile the typical client to be served for each.

5) Describe the history of adult services development in your county, including the impetus for their development and their growth relative to services for other populations, such as children. Identify assessment or planning initiatives which have determined their direction.

6) Identify services offered by state Department of Human Services staff around the development and implementation of adult services which you have found most useful. List other ways that state staff could assist your county agency in the area of adult services.

7) Describe how your agency cooperates and coordinates with other agencies and organizations in the provision of adult services. Identify those agencies and organizations with which you have regular contact and indicate the usual type of contact (e.g., daily contact around client referral through interagency written agreement with the County Home).

8) Describe your county's implementation of Ohio's Adult Protective Services Law by considering each of the following for the most recent fiscal year:

   a) Number of Adult Protective Services workers

   b) Specific training provided to Adult Protective Services workers

   c) Total number of reports received

   d) Number of reports by maltreatment type (i.e., abuse, neglect, exploitation, self-neglect)

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e) Total number of cases requiring court activity

f) Number of cases requiring court activity by type of activity (i.e., access for the purpose of investigation, emergency service provision, involuntary service provision for an incapacitated person)

g) Percentage of cases for which investigation could not be initiated within the time requirements of the Law

h) Number of cases wherein the adult made payment for protective services in accordance with the Law

i) Average caseload per full-time Adult Protective Services worker

j) Average intervention hours per client

k) Percentage of cases adjudicated as follows (A single client may receive more than one identified service.):

Received in-home services
Placed in emergency shelter
Placed in community-based residence
Placed in institution
Received surrogate care arrangements
Received increased informal support from relatives and friends
Refused services

l) Description of community education or public awareness activities initiated by the county agency regarding elder abuse and the Law

9) Indicate the number of adults under age 60 who received protective services from your agency because of abuse, neglect, or exploitation in the most recent fiscal year. Estimate the percentage this figure represents of the total need for protective services on the part of the younger adult population in your county. Profile the typical younger adult client receiving protective services.

10) Specifically comment on the following:

a) Availability of discretionary funds for adults in emergency situations

b) Use of Adult Day Care locally

c) Adequacy of board and care homes locally

d) Application for foundation and other such funding by the county agency

e) Need for changes in the Revised Code to address the needs of adults

QUESTION 2

The most common adult service provided by county workers is Adult Protective Services (mentioned by every respondent) followed by the services listed below (mentioned by six or seven respondents):

Community-based Care
Counseling
Homemaker Services
Information and Referral
Transportation

Other direct adult services are Chore Services, Employment and Training, Guardianship Services, Health-related Services, and Home Management.

Rural counties tend to have a maximum of two workers handling all adult services, including Homemaker Services, with the average adult services staff per rural county department being 1¼ workers. Often the responsibilities of these individuals are divided and include children services and contracting as well as adult services. When duties are specialized they tend to be in the area of Homemaker Services or Adult Protective Services very broadly defined. Moderate-sized counties average 1 3/4 adult services workers, although some offer negligible services to adults using less than a single worker. Adult workers in moderate-sized counties also have varied responsibilities. This pattern changes, however, in urban counties where there are more adult services workers and responsibilities are often specialized. Even specialty units are found, i.e. in Cuyahoga and Lucas Counties. Caseloads for adult services

workers generally range from 25 to 75, with 45 to 60 being most frequently cited.

Every county has a mixture of direct and contract or vendor adult services. Nonetheless, certain services are more likely to be purchased under contract or vendor arrangement, i.e. Homemaker Services, Home Health Aide, Legal Services, Chore Services, or Congregate or Home-delivered Meals. Certain counties are more likely to rely on contract than direct services, i.e. Butler, Clermont, and Sandusky - all moderate-sized counties. Contracts tend to be established with senior service providers (like senior centers and councils or offices on aging) and home health agencies.

The service emphasis for both direct and contract services is upon elderly adults, especially those of very advanced age, with low incomes, frail and impaired, and lacking local informal supports. Much less emphasis is placed on the needs of younger adults, even those who are impaired. Moreover, respondents expressed greater frustration dealing with the latter population, including the difficulty of working with agencies representing adults with mental health or mental retardation problems.

(See Tables A, B, J, K, S, and T.)

QUESTION 2

Rural counties differed from either moderate-sized or urban counties in those services given highest priority based upon the needs of local adults. In rural counties the highest priority went to Homemaker Services/Home Health Aide "to keep impaired persons in their homes as long as possible," "to promote their independence," and "to keep them out of nursing homes and other institutions." Second priority went to Transportation "always a problems in a rural county" where "there is no public transportation or even taxi services." Third priority was for Adult Protective Services.

In moderate-sized and urban counties highest priority was given to Adult Protective Services. It was the unanimous choice for highest priority among all urban counties, and nearly so among moderate-sized counties. It substantially lead over the second priority Homemaker Services/Home Health Aide and third priority Information and Referral (moderate-sized counties) or Community-based Care (urban counties). Its rating followed its perception among respondents as "essential," "mandated," and "dealing with crisis."

(See Tables C, L, and U.)

QUESTION 3

Since many counties experienced significant cutbacks in Title XX funding during the early 1980's, cutbacks which almost invariably lead to the curtailment of adult services more than children services, some counties initially would use any increases in available funding to reinstate these lost services. Usually contracted services were the first reduced. In addition, the Adult Protective Services Law was enacted during the same period, requiring counties to provide adult services in a way and to an extent never before required. Since no funding was attached to Law implementation, counties had to restructure the responsiblities of their existing adult services workers, or children services workers in some rural counties, to handle this mandated function. The complexity of the task, however, has resulted in most counties wanting to have at least one (or one or more additional) full-time workers to handle Adult Protective Services. Moreover, where counties have publicized the existence of the Adult Protective Service Law (and most have not, even minimally among the mandated reporters), there has resulted an increase in number of reports received, leading to a perceived need for more Adult Protective Services workers. Sandusky County represents a typical experience where agency staff announced the existence of the Law at a community council meeting, received a surge of reports, and kept quiet afterwards, because they could not consistently handle the number being received. Finally, the implementation of the Adult Protective Services Law has resulted in a need for increased support services, especially Homemaker Services/Home Health Aide, Community-based Care, and Guardianship or Legal Services. Many of the responses around need for current service expansion reflect this phenomenon.

There are no major differences between urban, moderate-sized, and rural counties in terms of their perceived need for current services expansion, except perhaps that rural counties are more likely to mention Transportation and larger counties Guardianship or Legal Services. The list below indicates the number of counties identifying each service area for expansion:

Adult Protective Services	14
Homemaker Services/Home Health Aide	13
Transportation	5
Chore Services	4
Community-based Care	4
Guardianship Services	3
Emergency Shelter	2
Legal Services	1
Home Management	1
Home-delivered Meals	1
Counseling	1

In some instances, service expansion was not so much seen in terms of increased numbers of clients to be served as offering clients more extensive services. This particularly applied to Homemaker Services/Home Health Aide, where often times current services are severely limited to perhaps four hours weekly (Cuyahoga County) or thirty to forty hours monthly (Lucas County), and the client service needs are in terms of four hours daily.

(See Tables D, M, and V.)

QUESTION 4

Rural and moderate-sized counties identified a wide variety of additional adult services which the county agency would provide if funding was available. Several of these services relate to housing, i.e., Emergency Shelter, Low-income Housing, Assisted Living, Community-based Care, and Group Homes. The remaining primarily functioned to support frail and impaired elderly persons in their homes or their community, including Chore Services, Home Supervision, Home Health Aide and Adult Day Care.

Three rural and moderate-sized counties could not identify any additional needed services. At least two of these counties, Columbiana and Erie, offer more than the usual number and diversity of direct services, and this factor may account for their inability to identify other needed services.

By and large, the service request by county was not extensive, usually no more than a single worker, and in some instances, particularly housing, the county agency was not seen as the sole service developer or provider.

Counties based their service need perceptions on general impressions by workers or current client needs or prior service cutbacks rather than any systematic needs assessment or other research. For this reason, they were usually unable to identify the extent of service need accurately. There were exceptions to this, however. Clermont County Red Cross, for example, conducted an needs assessment in 1983 around the establishment of an emergency shelter for a broad-based crisis or transient population, including "street people" and evicted families. This survey suggested that $225,000 were needed per year to house up to 600 persons.

Urban counties requested categorically fewer additional services. Nonetheless, there was a universal expressed need for Emergency Shelter, primarily to compliment Adult Protective Services. Cuyahoga County suggested that 35 to 50 elderly and 65 to 150 younger adults required shelter each year. Lucas County indicated that 4 to 5 clients monthly need some kind of emergency assistance, whether shelter, medical care, or food, little of which can currently be provided with the deficiency of housing and discretionary funding locally available. Montgomery County would house 45 adults per year in an Emergency Shelter.

(See Tables E, N, and W.)

QUESTION 5

Typically adult services in county agencies emerged either with the separation of income maintenance and social services or the availability of Title XX funding in the early to mid-1970's. The earliest services usually involved either protection or placement and included Homemaker Services as a component. Adult services expanded with increased funding or recognition of the needs of an increasing large local elderly population, and diminished in the early 1980's with the reduction in Title XX monies. Whenever adult services competed for funding with children services, the latter won, because the agency orientation was traditionally directed towards children services or state initiatives determined the emphasis would be placed here. Until the enactment of the Adult Protective Services Law in late 1981, counties saw no clear mandate for providing adult services. Even with the Law the mandate is less clear than with children services, because there has been no accompanying funding, community education, or policies and procedures.

Individual counties emphasized one or more aspects of the above summary on the historical development of adult services, but the description applies to nearly every department surveyed. Some counties were empathic in their agency bias towards children services. Sandusky County, for instance, indicated that because $7 million of their $15 million annual agency budget goes for Medicaid and most Medicaid reimbursement is for nursing home care for elderly persons, any non-designated money should and would go to children services, since obviously children are being "short changed" in service funding. Other counties suggested that community awareness on the availablity of adult services through the county agency was virtually non-existent. Butler and Sandusky

Counties exemplify this. Only one county indicated the development or expansion of adult services as a result of an agency-originated survey. In 1977 Erie County conducted a community needs assessment using General Relief clients to distribute questionnaires. The survey suggested a clear need for in-home services for the elderly. The agency expanded its Homemaker Services/ Home Health Aide as a result. Other county agencies have participated in human service councils, only a few of which have interested themselves in planning initiatives. Human service councils are primarily evident in moderate-sized counties. Rural counties seem to rely more on informal interaction among human service providers for the same purposes, and urban counties participate in planning and community needs assessments through private agency, university, and other such organization initiatives.

(See Tables F, O, and X.)

QUESTION 6

Counties were fairly definite on whether or not state personnel had offered services useful to the development and implementation of adult services. The most positive statements were made with respect to the recent workshops on Adult Protective Services and the consultation extended by the state administrator of Adult Services on specific case situations. The most negative statements concerned the lack of priority or interest shown adult services on the state level as evidenced by the comparatively little related funding, few state Adult Services staff, and lack of guidance or direction for adult services development and implementation. Specific remarks included the following: "The state has always been helpful; I could always get my question answered by Don Duhigg." (Jackson County) "Give adult services their due consideration; help us set up programs." (Butler County) "The only activity of the Ohio Department of Human Services designated to develop or implement adult services was a two day training session...other State Department activities have not been pertinent." (Erie County) "There have been no real services offered by state personnel." (Cuyahoga County) "They need to look at adult services the same way that they look at children services and give them the same status, funding, and expertise." (Lucas County)

The specific activities desired by county agencies from state personnel are listed below along with the frequency in which they were mentioned:

Advocacy for more funding	6
Training on Adult Protective Services, especially court intervention	6

Technical assistance on program development, especially Adult Protective Services and Community-based Care	4
Public education on adult services	3
Guidelines on adult foster care development	2
Waiver on specific fund use	2
Information on aging and the elderly	2
Priority given to adults services	2
Provision for discretionary funding for adult services	2
Case consultation	1
Community-based Care workshop	1
Training on service provision in rural counties	1
Establishment of adult services policies and procedures	1
Manual on adult services	1
Increased state Adult Services staff	1
Provision of mechanisms for handling problems that cross county boundaries, e.g., transient protective cases	1

Generally speaking, county agencies expect state personnel to provide training, standards, and direction for adult services. In addition, state personnel are seen as primary advocates for increased adult services funding, as well as determinants that such funding will be extended to counties with enough flexibility that local adult needs can actually be addressed. The primary adult services for which training and direction are sought are Adult Protective Services and Community-based Care.

(See Tables G, H, P, Q, Y, and Z.)

QUESTION 7

Rural counties differ from moderate-sized and urban counties in their cooperation and coordination with other adult services agencies. In rural counties relations are informal, based upon "knowing each other" and "getting along" in the human services community. Since there are few available service providers and an inter-dependency in order to meet the needs of the local adult population, "getting along" is seen as essential for service provision. Referrals and case consultations are conducted over the telephone or in chance meetings; only rarely are there pre-arranged interagency case staffings or service planning. Primarily, relations are held with local councils on aging and health departments.

In moderate-sized and urban counties there is often a group that regularly meets to plan and coordinate adult services either generally or around a specific type. Usually the auspice for this group is United Way Services or the area agency on aging. Relations between service providers are more formal in larger counties, with an emphasis placed upon interaction with those agencies wherein which there has been established either contractual or compactual relations. Interaction occurs with a greater number and variety of agencies, since more resources are available. Of primary importance, however, are counseling services, police departments, mental health agencies, hospitals, health departments, and the aging network.

QUESTION 8

Rural counties averaged nearly 14 reports under the Adult Protective Service Law during the last fiscal year (range 3 to 40). Most of these reports concerned self-neglect (50%), with the other forms of maltreatment occurring each with similar frequency (abuse 16%, neglect 18%, and exploitation 16%). Ordinarily, reports were handled by workers whose job responsibilities included other functions, such as children services, contracting, or additional adult services. Their training was limited to workshops provided by state personnel and in one instance each to attendance at seminars provided by the aging network and reading of the University of Southern Maine's series on Improving Protective Services to Older Adults. Rarely did a case require court activity, and when it did, the Domestic Violence Law or criminal code was used or threatened rather than the Adult Protective Service Law. Investigation was always initiated within the time constraints of the Law, simply because priority was given to protective situations and other matters were dropped when reports of their occurrence were received. Adults were never required to pay for services. The average caseload of full-time Adult Protective Services workers was 39, regarded by respondants in these counties as too many and allowing time only to deal with crises. The average number of intervention hours per client was 23 (range 5-7 to 50). Case adjudication usually involved in-home services and increased informal support from relatives and friends. Institutional placement occurred in ¼ of all cases, and 12% of elderly adults refused services. Five counties indicated that their agencies have initiated no community education or public awareness activities regarding elder abuse or the Adult Protective Service Law. In two counties presentations were made before a few community groups, and state brochures were kept on display in the office lobby.

Moderate-sized counties averaged over 55 reports under the Adult Protective Service Law during the last fiscal year (range 16 to 144). Once again, most concerned self-neglect (53%), with the other maltreatment forms occurring each with similar frequency (abuse 18%, neglect 16%, and exploitation 13%). Staffing patterns for handling reports were similar to those found in rural counties, as was the training on Adult Protective Services provided to workers charged with Law implementation. Four percent of the cases involved some form of court activity, although this intervention mode occurred almost exclusively in only two counties (Columbiana and Erie). Most of these cases involved involuntary service provision leading to guardianship. Only Columbiana County indicated any difficulty in initiating investigations within the time constraints of the Law, and then only for 10% of case situations. No county agency required any adult to pay for protective services rendered. Indeed, a couple suggested that this provision of the Law be eliminated, since it is seen to conflict with the general intent of Protective Services for Adults -- without regard to income under former Title XX. Only Columbiana County could provide an average caseload for a full-time Adult Protective Service worker -- 35. Intervention hours per protective services client ranged from 3-4 to 15 with a mean of 9. Once again, case adjudication usually involved in-home services and increased informal support from relatives and friends. Institutional placement occurred in 19% of all cases, and 9% of elderly adults refused services. There has been somewhat more community education regarding the Adult Protective Service Law in moderate-sized counties, but still efforts are minimal and generally confined to mailing out state brochures and informing the local human services council. Butler and Sandusky Counties have undertaken no public awareness activities. Only Columbiana County has offered presentations on the topic to service organizations and civic groups.

Urban counties experienced an average of 187 reports under the Adult Protective Service Law (range 23 to 380). Only Cuyahoga County could provide a break-down for maltreatment type, indicating abuse 36%, neglect 26%, exploitation 15%, and self-neglect 23%. Lucas County claimed to mostly receive reports concerning neglect or self-neglect, little concerning abuse, and experiencing exploitation on the increase. Reports ordinarily were handled by specialized Adult Protective Service workers in urban counties, their training including the state workshops on Adult Protective Services as well as seminars on aging at local universities and through community agencies. Less than 4% of all cases required court activity. When court activity did occur, it was for a vareity of reasons, including access for the purpose of investigation and restraining order for protective services provision. Cuyahoga and Stark Counties had some difficulty in meeting the time requirements of the Law around investigation. Cuyahoga County could not initiate investigation within the three working days required for up to 30% of its reports, and Stark County for up to 2% of its reports. Emergencies received immediate response, however. No adults were required to pay for protective services received in any urban county. Average caseload size for full-time Adult Protective Services workers in urban counties was 40, with caseloads occasionally climbing to 55 in Cuyahoga County and 70 in Stark County. Average intervention hours per client was 35. Case adjudication usually included in-home services; institutional placement was infrequent. Community education on the Adult Protective Service Law or elder abuse was more extensive in urban counties. Cuyahoga and Lucas Counties are a part of community-wide networks on Adult Protective Services. All four urban counties have made presentations on the subject to service providers and distributed informative brochures. Cuyahoga County staff have also participated in radio interview and cable television

programs on the subject of elder abuse and served on the planning committees for local workshops and conferences on elder abuse and Adult Protective Services sponsored by the Federation for Community Planning.

(See Tables I, R, and AA.)

QUESTION 9

Rural counties encountered an average of nine non-elderly adults during the last fiscal year in need of protective services because of abuse, neglect, or exploitation. Moderate-sized counties encountered 25 and urban counties 77. Ordinarily these adults had marginal intelligence, suffered emotional or psychiatric problems, or were substance abusers. They had few, if any, informal supports and were not connected with the existing community services systems. They were unemployed and receiving either SSI or General Relief. Many were homeless. Frequently they were exploited by friends or caregivers and sometimes abused by these same persons. Oftentimes, they were former recipients of children services through the county agency.

QUESTION 10

Few county agencies had discretionary funds for adults in emergency situations. When they did, the amount of these funds was severely limited to perhaps $100 per situation. Some county workers contributed their own money in the most desperate of client circumstances. Every agency expressed the need for discretionary funds, particularly for medical care, clothing, food, and other essentials in emergency situations.

Cuyahoga County and Stark County made greatest use Adult Day Care for their clientele. Neither considered existing resources deficient in quantity or quality, and neither encouraged Adult Day Care licensure. None of the rural or moderate-sized counties used Adult Day Care as an intervention mode, except occasionally as related services may be available in the form of day treatment from the local mental health center.

The experience of county agencies with respect to board and care homes has been mixed. Rural counties know of few such homes. Only moderate-sized and urban counties have much association. Erie and Lucas Counties characterize their board and care homes as "flop houses" where "meals are usually inadequate" and "care is insufficient for the level of illness." Clermont County suggests that its homes are good and the providers qualified to deliver care and supervision. Montgomery and Cuyahoga Counties indicate a wide variety of standards apparent among their local board and care homes. Licensure is not seen as necessarily eliminating the adverse situations, since existing building and safety codes, if enforced, could offer sufficient protection.

No surveyed county had applied for foundation or other such funding for adult programming.

Most counties indicated that the definition of "adult" in the Adult Protective Service Law should be expanded to include those 18 years of age and older. There was general feeling that the same measure of protection should be afforded younger disabled adults as now is afforded the elderly under the Law. Additional recommended changes in the Ohio Revised Code included public guardianship (Lucas County), a nursing home abuse reporting law (Sandusky County), and provision for a central registry and toll-free telephone referral number for abused adults (Montgomery County). Finally, almost every county requested line item and increased appropriations for adult services.

Mr. PEPPER. Rather than waiting until the end of the testimony of the panel, I am going to ask just a few questions as we go along. Starting with Dr. Pingree, do we have in Florida a proper and adequate reporting statute on abuses to the elderly?

Mr. PINGREE. As far as reporting of abuses, yes. Relative to the possible financial abuses that have been discussed earlier, we also have the Omnibus Nursing Home Reform Act that was passed in 1976 that requires regular and periodic audits of nursing homes. At the same time, the long-term care ombudsman councils have access at any time to nursing homes in the State, and we audit patient trust funds and so forth.

I am not about to say that there is no problem or that there isn't perhaps more we need to do. After hearing the testimony this morning, I am going to go back and make sure that we are adequately monitoring those costs.

Mr. PEPPER. In other words, there is a risk that in nursing homes or other homes where elderly people are residing, there may be similar situations to those we heard of this morning.

Mr. PINGREE. We have had a decrease in the number of complaints relative to people who are residing in nursing homes since that act was passed.

Mr. PEPPER. Mr. Duhigg, in your case, does your Ohio act give the authorities operating under that act general authority to do practically anything necessary to protect the elderly?

Mr. DUHIGG. I would say, yes. The workers——

Mr. PEPPER. Do they have judicial authority?

Mr. DUHIGG. They can go to court. They have to make a petition to the probate court and the probate court has the authority. But they can petition a court ordered placement, for example, or protective services and with the approval of the court, they will be provided. That is a part of the Ohio act.

Mr. PEPPER. In other words if it is necessary to get a son or son-in-law out of a parent's home to keep from continuing abuse by that individual upon the parent, the agency would have authority

to take that complaint to the probate court and the probate court could issue that kind of an order?

Mr. DUHIGG. It has been done and courts have ordered temporary restraining orders asking unscrupulous relatives to leave the home, yes. I know this has been done.

Mr. PEPPER. Well, of course, deep behind all this is the need of which this committee has been so much aware of for so long, the need for long-term care for the elderly people of this country and the indigent people of this country. So I have so many instances of wives of veterans in veterans hospitals who have called me with a grievious complaint—"Please don't let them send my husband home from the hospital. I have no place to keep him. I have nobody to look after him. I have to work. Please don't let them send him home."

I call the veterans hospital and they say we are sensitive to the problem he has, but these beds are for people who can get some benefit from being treated, and he is to a state now where further treatment is not going to do him any good. He is a case of terminal or long-term disability. And even the Veterans' Administration doesn't have enough care homes to take care of those people. And one of the things that we are very much concerned about is some way to provide long-term care for the people of the country who need it.

Thank you very much.

Now, Mrs. Hill, we will hear from you please.

STATEMENT OF FRANCES HILL

Ms. HILL. Mr. Chairman, I have submitted photographs for your consideration and that of the committee. They are those on the lower left which clearly demonstrate abuse to an 86 year old female.

Mr. PEPPER. Excuse me just a minute. Mr. Duhigg, are you concerned about whether you have the possibility of situations like that that Ms. Pope was involved in that may be occurring in your State where elderly people are confined?

Mr. DUHIGG. Yes, I am. I have heard that nursing homes and this is just allegations that you hear, sometimes hold on to money that should be given to patients. It is a modest amount of money. It is a personal allowance, but by right it belongs to patients. I have heard that there is possible abuse there.

Mr. PEPPER. We are going to try our best to alert all the people, check up to see what you might do with your attorney general and your authorities there. You might be helpful in alerting them to the problem.

I am sorry, Ms. Hill, go right ahead.

Ms. HILL. Following the abuse, this lady lost the vision in her left eye, which was her only good eye. She had lost the other eye years before with unsuccessful cataract surgery. She lost the ability to walk and is now confined to a nursing home. Sadly she is but 1 of the 4,442 elders who were reported as abused in Alabama in 1984.

My name is Frances B. Hill, and I am director of the Blount County Department of Pensions and Security, Oneonta, AL. This is the social services agency designated by the code of Alabama, as

being responsible for the investigation of adult abuse and neglect and as well as child abuse and neglect.

There is a wide disparity in services we are able to give because of lack of funding. I am from a small rural county, a population of approximately 36,000. We have 9.5 social workers who can offer services for families and children. We only have 1.5 social workers who offer protective services and other services to adults. Very much like the gentleman mentioned a few minutes ago, we have had to divide our staff because we did not get additional funding to take care of the problem of elder abuse.

We also have 1 foster home for elders where we have approximately 30 for children. I think you can see from this that there is a wide disparity in services. Also the State will pay for services for children in foster care. In other words, we pay their board, but we can only do this for 90 days for elderly people.

In that 90 days, we are expected, by some miraculous means, to find funding to take care of their expenses while in foster care. One of the best preventive services we have in Alabama is the provision of homemaker services, but again, without regard to income this is limited to 90 days because of funding.

I am aware of the legislation which has been proposed by you for many years, and that which has been introduced by Mrs. Oakar.

I think that as one who is in direct daily contact with this particular form of human need and suffering, I can certainly tell you that Federal leadership is badly needed. We need funding, but we also need leadership. I think one of the best things Ms. Oakar proposes is a national center. "ABC News" was in our county this week to film this lady whose pictures are here today. They were amazed in our lobby as to the number of posters related to child abuse. They said where are your posters about elderly abuse? I said to my knowledge there are none. We get posters about children from the national center, which of course, you would like to see implemented for elders..

I think that I have given in my written statement several cases that I am very familiar with related to elder abuse, and perhaps it is redundant to mention them. But I would like to mention that somebody here today has said that sexual abuse is not a problem so much for elders as it is for chilren, but we recently had a 92-year-old woman who had been sexually molested by her son-in-law for 17 years. And the only way it was brought to our attention was through her hospitalization, which was directly connected with molestation.

As was mentioned by one of these gentleman, we have self-neglect, which is a real problem. We had an elderly couple who lived under a bridge. They had no shelter from the elements and very little to eat until their plight was brought to the attention of our department. We helped to make other plans. Self-neglect is certainly not the primary problem. In our country we have done several studies and we have found that over 65 percent of the cases do involve a perpetrator, someone who has inflicted either abuse or neglect upon an elderly person. Another problem that we have encountered is a problem that will have to be corrected by law. We had what we called a floating boarding home. They had moved to nine counties in the State, and as soon as anybody became aware of

how badly treated the inhabitants of the home were, they picked up and moved to another county. Eventually, we got the owner. We had to stand helplessly and watch him leave with 11 elderly people because Alabama has no laws which regulate boarding homes.

One of the things which people sometimes forget is that our work is so frustrating because of lack of staff, lack of funding, and lack of resources. While we certainly see the elderly victim as the primary victim, social service agencies are also being victimized because we cannot do good work and offer the services which are needed by the elderly people.

Elder abuse, as was mentioned earlier, is inflicted upon victims who are physically, mentally, and emotionally poorly equipped to defend or speak out for themselves. This lady whose picture is displayed here today—fortunately we were able to help. We were able to reunite her with other family members who care very much for her. She is a success story, but we do have others where due to lack of resources and lack of concern by family members we are able to do very little.

Those of us who care, including you who are in Government, must be advocates for laws and policies which are responsive, coordinated and comprehensive enough to serve an increasing aging population. We must work to end the tragedy of elderly abuse. Thank you very much.

[The prepared statement of Ms. Hill follows:]

PREPARED STATEMENT OF FRANCES B. HILL, DIRECTOR, BLOUNT COUNTY DEPARTMENT OF PENSIONS AND SECURITY, ONEONTA, AL

Mr. Chairman and members of the committee, I have submitted photographs for your examination which clearly show the results of abuse to an 86 year old female. Following the abuse, which had continued for some time, the lady lost the vision in her left eye, the ability to walk and is now confined to a nursing home. Sadly she is but one of the 4,442 elders who were reported as abused in Alabama in 1984.

My name is Frances B. Hill and I am Director of the Blount County Department of Pensions and Security, Oneonta, Alabama. This is the social services agency designated by the Code of Alabama, as being responsible for the investigation of Adult Abuse and Neglect and as well as Child Abuse and Neglect. The law also charges us with the responsibility of providing protective services. While we have limited resources to fulfill these responsibilities in both areas, we are much more limited in providing social services for Adults. In our rural county, population 36,000, we have a total of 9½ social workers who investigate reports of Child Abuse and Neglect and provide preventive and follow-up services. For Adults, we have 1½ social workers to provide all services for more than 160 individual cases. Where we have approximately 30 foster homes for children, we have 1 for Adults. There is no time restriction for providing foster care for children, but due to lack of funds our state policy restricts payment for foster care for adults to 90 days. For persons living in their own home where homemaker service is provided as a prevention to abuse and neglect there is a 90 day limit due to lack of funds. There is, as you can see, a wide disparity as to available services.

I am aware of the legislation proposed by Ms. Oakar and Chairman Pepper. As one who is in direct contact with this particular area of human need and suffering, I can tell you that there is a tremendous need for the Federal Government to assume a leadership role and to allocate funding to help states provide a more adequate level of protective services for Adults. At present we lack staff to protect elders who are in imminent danger.

You can relate to the fact that older Americans who are abused and neglected protect those family members who are perpetrators of the abuse. They do not come forward because they fear further abuse, total loss of family support, (however limited), and even more loneliness and isolation. Parents offer excuses for their children who abuse, neglect and exploit them financially. I am reminded of a mother and father who deny the financial exploitation of two alcoholic sons who take their lim-

ited income from them by force. Visualize with me the elderly woman who is locked in a small out building and fed only once a day. Self-neglect is a problem as I saw with an older husband and wife who lived beneath a bridge. They had no real shelter from the elements nor regular meals until their plight was reported to our agency. However, it is important for you to realize that in our county 65.4 per cent of all reports do involve a perpetrator. Try to imagine an 83 year old woman who was found by one of our social workers to be bruised and mutilated. Her doctor found her to have a broken arm and dislocated shoulder. She initially told us that her granddaughter had become angry with her and inflicted her injuries. She later retracted her statement and said she fell from her bed. Her initial, tearful story was much more believeable to the doctor and social worker. A supervisor and social worker were unable to protect 11 elderly persons who lived in a floating boarding home and watched helplessly, as the owner moved the facility to yet another area of the state. Alabama has no laws regulating boarding facilities and these often are little more than financial exploitation traps for elderly and disabled people. Thank you for allowing me this time to present some data directly from the "front line." Our work is often frustrating due to lack of funding and inadequate laws. Social workers find that their excessive case loads prevent their offering service which is of high quality which in turn makes their work so discouraging. While the elderly client is the primary victim in abuse situations, the social service agency is also victimized through inadequate funding.

Elder abuse is inflicted upon victims who are physically, mentally and emotionally poorly equipped to defend or to speak out for themselves. Those of us who care, including you who are in government, must be advocates for laws and policies, which are responsive, coordinated and comprehensive enough to serve this increasing population. We must work to end the tragedy of elder abuse.

Mr. PEPPER. To those who say that the elderly of this country live well, they don't need any special help, you know of evidence to the contrary, don't you?

Ms. HILL. I certainly do.

Mr. PEPPER. I wish a lot of people up here could understand that, that so many of the elderly people today are in such desparate need. Thank you very much, Mrs. Hill, for your excellent statement.

Mr. PEPPER. Mrs. Quinn, we would be pleased to hear from you.

STATEMENT OF MARY JOY QUINN

Ms. QUINN. Good morning. My name is Mary Joy Quinn, and I am employed as a court investigator for California Superior Court, city and county of San Francisco. As such, I conduct investigations with regard to conservatorships of the person and estate of frail and at-risk adults, most of whom are over 65 years of age. Conservatorships are legal devices whereby one party, either a relative or a friend or in some cases a bank or an attorney, is appointed by the court to handle the personal and financial affairs of adults who in the court's opinion are incapable of handling their own affairs. Once a conservator is appointed, the individual, then known as a conservatee, in effect has no control over her affairs. If it is a conservatorship of person, the conservatee loses the right to choose her own doctor and her place of residence. If it is also a conservatorship of estate, she loses control over her finances and her conservator can, with court approval, sell her house. In many States, guardianships serve a similar purpose.

In San Francisco, the court investigation unit supervises 2,000 such conservatorships and the 3 investigators perform 30 to 40 investigations every month. We encounter all types of abuse and neglect of the elderly on a daily basis: physical, psychological, financial, violation of rights, and self-neglect. Most conservators do an

adequate to superlative job, but at least 15 percent of the conservatorships are seriously troubled. We feel that the incidence of elder abuse and neglect is rising not only because we are getting better at detecting it, but because of the increase in the numbers of people over the age of 75 who are seriously impaired and thus more vulnerable to abuse. As you may know, the fastest growing segment in our society is the group 75 and over.

Fortunately, for older adults in California, there are court investigators who serve as advocates for the elderly by interviewing them personally and reporting to the judge on their needs and desires. Court investigators also guard due process rights by advising proposed conservatees and conservatees of their legal rights and by arranging for attorney representation. Investigators make routine investigations once a conservatorship is established and respond to complaints about conservators. Initially, the State bar of California and many superior court judges were opposed to court investigators feeling that there was no abuse or neglect of older people and that investigators would needlessly disrupt family situations. Now, 7 years later, our judges tell us that they don't know how they made solid decisions without our input and recommendations.

The cases I will present today are typical of the situations we encounter. I call your attention to the poster board behind me. Four of those cases came from our records in San Francisco. In addition, I will briefly outline three cases. The first one is Mr. A, who was age 71 and lived in a large midwestern city and had been diagnosed as having Alzheimer's disease. His brother had him sign a durable power of attorney, began to collect his monthly pension, sold Mr. A's house and moved to Florida. A daughter in San Francisco became Mr. A's conservator. When she went to the bank to take legal possession of her father's $50,000 savings account, she found that the brother had moved it to Florida. He has never accounted for any of the money, and in addition, has converted his brother's Florida property to his own name.

The second case is Mrs. P. Mrs. P, age 78, and severely demented, was abused physically and financially by her son with whom she lived. The son had never held a formal job and lived off his mother's social security. He dissipated a trust that had been left to his mother and induced his mother to place his name on the deed of the family home.

In December 1984, the son brought his mother to a hospital emergency room. Her head and body were covered with contusions and there were wounds on her neck resembling human bite marks. She suffered from massive blood clots on her brain which required surgery and there was a huge bruise on her lower abdomen. The son said she fell, but her injuries were inconsistent with his explanations. She did well after the surgery, but her son could not be left alone in the room with her. He had been found trying to get in bed with her, and on at least one occasion with his hands under the bedding manipulating his mother's genitals. The mother often thought that her son was her husband.

The third case involves two sisters, Miss C and Mrs. C. Miss, age 92 and Mrs. C., her 85-year-old sister lived with the son of the younger woman. He had no known income and had taken possession of the women's bank accounts. He removed his mother from a

nursing home to save money. The women lived in a front room of an apartment, were bedbound and incontinent. The son insisted on caring for them, but over a period of 6 months, they were both repeatedly hospitalized with pneumonia, severe dehydration, malnutrition, and multiple pressure sores. The women were finally removed from his care over his protestations and a conservator was appointed to handle their affairs.

I would like to make three recommendations to the committee based on my experiences as a court investigator in California. One, I would urge that other States consider passing legislation creating court investigation units. Without investigators, judges run the very real risk of appointing abusers and have no way of knowing if conservators have become abusive.

Two, funding for Federal adult protective services is meager in comparison to what is spent for children. In 1981, the States were committing only 6.6 percent of their protective service budgets to the elderly while 86.7 percent was going to children. I'm sure these figures still hold. Legislation introduced by Representatives Oakar and Pepper would remedy this situation.

Three, banks are frequently aware of financial abuse by conservators and by those who hold powers of attorney but they have been reluctant to report these abuses for fear of civil suit. Legislation should be passed that would exempt financial institutions from civil suit if they report financial abuse to the policy or the courts in good faith.

Thank you.

Mr. PEPPER. Thank you very much. You know, something that you said about these conservators reminds me that Dr. Robert Butler, who used to be head of the Institute on Aging, as you all will recall, has repeatedly called to the attention of the country. The medical schools, even the best, are not except in a few instances teaching geriatrics to their students; a student gets out and becomes a doctor without actually appreciating the peculiarities of the elderly.

The symptoms of the elderly are not always the same as the symptoms of younger people with respect to disease. Their response to drugs is not always the same, they tell me. In other words, more and more now there is emphasis on the medical schools teaching the students who are going to become doctors the peculiarities of the elderly so they will know something about the people they are treating.

I think it would be good training too, for the judges who appoint conservators. They need to know something about the shortcomings, the limitations of the elderly, so that they will be wiser in appointing conservators than they otherwise might be. And they need constant supervision and constant examination and followup on it.

That is one reason I wish that there was somebody who could check up on every elderly person who might under any grounds of expectation be dependent or be the victim of something. I guess there are too many of them for public authority to keep up with all of them, but that is the reason these reporting statutes are so important. Somebody sees those people, whether it is a fellow that delivers groceries or the postman or somebody—usually he is in that apartment or in that house or hears something that comes out of

there, the neighbors are around, gets some idea about what is going on over there, what conduct the males there may be engaging in.

I think we should encourage, and I am going to ask all of you in a minute, would all of you agree that it has been desirable to have the Federal legislation relating to the protection of children against abuse, and if you think that has been desirable, would you think comparable legislation at the Federal level to protect the elderly would be desirable?

Ms. QUINN. Yes, absolutely.

Mr. PEPPER. Are all of you agreed?

Ms. LA PRADE. Absolutely.

Mr. PEPPER. Thank you very much, Ms. Quinn.

Mr. PEPPER. Ms. La Prade.

STATEMENT OF VON LA PRADE

Ms. LA PRADE. Thank you. My name is Von La Prade. I am from Phoenix, AZ, and I am here to talk about an organization that we started in Phoenix to address elder abuse. We did it through our organization de Novo, which was formed to address family abuse and as an offspring of that we developed the program, AISE, standing for Arizona Residents in Servcie to Elders.

We feel that quite obviously this is a problem that cannot be taken care of by just one sector, and private citizens such as ourselves need to get involved in the areas of volunteerism and those kinds of things.

I would like to tell you a little bit about the program this morning and some of the things we have accomplished, and then my associate will talk about some of our future plans. The legislation that you are trying to promote, sir, would help us very much and hopefully would help any other States who might want to emulate some of what we are doing.

De Novo, Inc. a nonprofit organization, developed the AISE Program in August 1984. AISE's mission is to prevent elder abuse through awareness of the problem, direct involvement of volunteers, and coordination of community resources. Arise was developed in response to the incresing problem of elder abuse in Arizona. In a recent year, the authorities of adult protective services received over 7,000 reports of physical, emotional, or financial exploitation or denial of civil rights involving persons age 60 and over.

Our AISE Program assists in several ways. Our volunteers are recruited and screened and trained in sensitivity to abuse of elders. After training, they are placed in positions of interest to them either with other service providers or with adult protective services or some of the other organizations that we have aligned ourselves with. They may assist with investigations or may receive further training as legal advocates working in some of the senior centers, so as people come in they have some assistance with these kinds of problems.

Some are doing friendly visiting and there is just a wide variety of what people are able to do. The volunteers receive ongoing training which provides them opportunities to share information and learn more about the area in which they are working. And finally,

we are trying to serve as a clearinghouse for information on abuse, and networking agencies within the State.

I would like to tell you a few things that a small group of us, less than 60 to 70, have been able to accomplish since roughly September 1982. In 1983 we were able to get an immunity bill passed for people to report abuse. In 1984 we were able to get the mandatory reporting law which includes reporting of all four types of abuse passed. Also, in 1984 we had the order of protection, which is the legal device that is used in Arizona in domestic violence cases, expanded to include the elderly.

And I would like to say that the main supporter behind this legislation was a young lady that was here earlier and had to go to another meeting, Representative Debbie McCune, House of Representatives, Arizona. We have also initiated and cosponsored a number of conferences on elder abuse for special interest groups such as corrections people, attorneys, physicians service providers, and the general public.

And we have been able in the main to be self-funded, in which event we have raised over $100,000. Representative John McCune, who sits on this committee, has been exceptionally helpful, and when we have had needs that he could address he has been there to assist us and it is wonderful to know that you have that kind of support.

I would like you now to hear from Anita O'Riordan, who is the true expert in this area.

Mr. PEPPER. Ms. O'Riordan.

Ms. O'RIORDAN. In addressing the problem of elder abuse our future plans include many concerns I have heard expressed today. We proposed in July of this year to expand de Novo's AISE Program on two fronts. The first element will require expansion of our volunteer opportunities in five major areas, the first being at the public fiduciary office to control fraud and exploitation through guardianship and conservatorship.

The opportunity will be provided at the attorney general's office to monitor fraudulent schemes against the elderly. Working with local police and businesses such as hair dressers, barbers, local banks to expand a neighborhood block watch program to provide concerned neighbors for our elderly. With adult protective services through its investigators to expand the availability of advocacy resources for elderly victims of physical and psychological abuse.

Expansion of our Legal Advocacy Program to all senior centers an outreach programs in store fronts at shopping centers. Our second element of expansion involves public speaking on a wide front to heighten awareness to the tragedy of abuse, increased networking and interagency cooperation to coordinate and make known all available resources.

We would assume a consultation and advocacy role in several areas of concern hopefully to promote training programs for those working with the elderly and training programs for family care givers to help them understand and therefore better cope with the realities of caring for an older family member before an emergency situation arises.

The investigation and development of additional programs for other agencies to meet their recognized and stated needs. Further

the encouragement and assistance in establishing aging education programs in school's curricula as a normal component in an effort to combat ageism. All of these siguations will require us to somewhere find additional volunteers whom we can train in order to maintain somewhat of a fiscal balance between costs and required services.

I would urge the establishment of a national clearinghouse for information and direction which is essential to a national policy addressed to our area of concern, which is elder abuse. Thank you very much.

Mr. PEPPER. Thank you very much, Mrs. O'Riordan. Do you feel that you have adequate statutory authority to deal with the protection of the elderly in Arizona?

Ms. O'RIORDAN. No.

Mr. PEPPER. What do you think would be desirable?

Ms. LA PRADE. No, sir, we are also conducting some studies to find out what areas we need to improve upon that are being exploited such as perhaps the guardianship laws.

Mr. PEPPER. Do you have a reporting statute?

Ms. LA PRADE. Yes, sir, we do. We got that in last year.

Mr. PEPPER. Is it working? Is it doing good?

Ms. LA PRADE. Yes. We have a limited number of adult protective services workers in Arizona; 18 to be exact. I believe it was last year they received over 7,000 referrals and that has begun to double since the law went into effect in August. Their reporting monthly has doubled so they need more staff.

Mr. PEPPER. Have you any suggestions that would be, you think, maybe helpful to this committee in dealing with the problem? Do you think you have any institutions where elderly people might be the victims the way the veterans in the Old Soldiers' Home were, to Ms. Pope's embezzelment?

Ms. O'RIORDAN. I would think that all institutions where elderly are being housed have to be scrutinized more carefully and that the people working there must go through some kind of screening process in order that things do not happen. I think it is more frequent than perhaps we realize.

Mr. PEPPER. You know, the people who are in charge of these reporting organizations have a great responsibility to be on the alert to search out, to be innovative, to try to find out what is going on. I can think of some people like the postman—who can pretty well get an idea about what is going on in a household as frequently as they see that household. They don't need to go put their name in the paper as having reported on it, but they can get a prosecuting attorney or somebody having to do with the grand jury or sheriff's office involved or better, go to the reporting agency. And then they can have a representative go to that home and say they want to come in and talk to them.

They have authority to go in and speak with them and talk to them, and they can form their own ideas about how things are going, and especially in cases were people have been beaten, that should be followed up. They should not be allowed to get away with that. You think it would be helpful, as I asked all of you a while ago, for the Federal Government to establish legislation compara-

ble to the legislation protecting children to give sort of an incentive, some leadership to the States?

Ms. LA PRADE. Absolutely.

Ms. O'RIORDAN. Yes.

Mr. PEPPER. Well, I want to tell all of you how much we appreciate your coming here today. We hope it will be helpful to a lot of poor souls who need help, and we will try to make the best possible use of the valuable testimony that you have given us.

I want to thank each of you for your kindness in being with us today, and your valuable contribution. Thank you all very much and the Lord bless you. Have a safe trip home.

[Whereupon, at 1:10 p.m., the hearing was adjourned.]

APPENDIX 1

ELDER ABUSE: A NATIONAL DISGRACE

INTRODUCTION AND EXECUTIVE SUMMARY

Elder abuse. This phrase represents a shocking and still largely hidden phenomenon affecting hundreds of thousands of our nation's most helpless and vulnerable Americans. The average citizen would find it hard to believe how widespread and frequent this problem is — how it cuts across all classes of society, how it occurs in bustling metropolises and small towns, in suburbs and on farms. More importantly, most would prefer not to acknowledge that such abuse exists. In a landmark report issued in 1981 entitled "Elder Abuse: An Examination of a Hidden Problem," the Aging Committee found that elder abuse is simply — "alien to the American ideal. Even abused elderly are reluctant to admit their children, loved ones, and those entrusted with their care have assaulted them. For this reason, the abuse of our elderly at the hands of their children until recent times has remained a shameful and hidden problem."

The 1981 report was an attempt to explore what was known about elder abuse. What the Committee found was that elder abuse was far from an isolated and localized problem involving a few frail elderly and their pathological offspring. The problem was a full-scale national problem which existed with a frequency few have dared to imagine possible. In fact, abuse of the elderly by their loved ones and caretakers existed with a frequency and rate only slightly less than child abuse. There was no question that the problem was increasing dramatically from year to year.

The Committee also found that elder abuse was far less likely to be reported than the abuse of children. While one out of three child abuse cases is reported, only one out of six cases of adult abuse came to the attention of authorities. Lastly, the Committee concluded that some 4 percent of the nation's elderly may be victims of some sort of abuse, from moderate to severe. In other words, one out of every 25 Americans, or roughly one million older Americans, may be victims of such abuse each year.

The horrifying conclusion to be drawn was that elder abuse, which frequently is seen as breaking the bond between parent and child — a bond so central in the fabric of society — was everywhere. The obvious question was what could the Federal government do to provide safety to seniors in their own homes. In reviewing the history of domestic abuse in America, the Committee found that federal legislation in the area of child abuse paid handsome dividends in encouraging the States to enact needed legislative reforms designed to prevent and identify the abuse of children within their jurisdictions. With the enactment of the Child Abuse Prevention and Treatment Act of 1974, the States were quick to enact statutes in accordance with the Act and gain eligibility for receipt of funds to designate agencies within their State for the purpose of identifying, assisting and preventing child abuse. It seemed obvious that the Federal government could play a similar role in the analogous area of elder abuse.

Therefore, in order to help the States and stimulate them to improve their own statutes and the protections they offer the infirm and dependent elderly, the Committee recommended the passage of legislation identical to the Child Abuse Prevention and Treatment Act of 1974 as an important step in controlling unwarranted violence against the aged. Subsequently, legislation was introduced in the Ninety-Seventh Congress (H.R. 7551) and every Congress since has sought to carry forth this recommendation. Although this legislation has not yet been enacted by the Congress, it has generally enjoyed wide bipartisan support. In fact, in a 1980 survey by the Committee to all State Departments of Human Services, the question was posed, "Would you support the passage of H.R. 7551?" Virtually every State responded in the affirmative. Congress responded similarly and over 100 Members of Congress joined in favor of this reform measure before the close of the 97th Congress.

Given the widespread support for this legislation, States were quick to act. Encouraged by the possibility of financial assistance, States began modifying their elder abuse-related laws and procedures to gain compliance with the anticipated new law's mandate which included mandatory reporting provisions. By 1985, 37 States and the District of Columbia had adopted mandatory reporting provisions as part of their adult protective service laws. Between 1980 and 1985 alone, over 21 States and the District of Columbia enacted mandatory reporting requirements for elder abuse as required by H.R. 7551. Prior to 1980, only 16 States had adult protective service laws with such provisions.

In spite of impressive regulatory reform at the State level, the Subcommittee was disturbed by the increasing indications that elder abuse had not abated and perhaps was increasing. In 1984, the Subcommittee initiated this inquiry to update what is known

about the problem. Following public notification of the Subcommittee's interest in a February 17, 1985 Parade magazine article on elder abuse, the Subcommittee received literally thousands of letters from throughout the United States from concerned individuals. This barrage of mail revealed a litany of abuse from North and South, East and West. Horrifying tales of abuse incidents in nursing homes and private homes, often at the hands of family and loved ones, unfolded throughout the pages of correspondence.

In order to determine the Nation's effectiveness in coming to grips with this national tragedy, the Subcommittee undertook the following steps:

- Collected, reviewed and tabulated letters and case histories received by the Subcommittee over the last four years, as well as letters received in response to the Parade article of February 17, 1985.

- Reviewed all hearings and reports on abuse of the elderly by Congressional Committees and administrative agencies.

- Prepared and sent a questionnaire to all State Human Service Departments at the Chairman's request. The responses to these questions were tabulated and appear later in this paper. The questionnaire can be found in Appendix I.

- Conducted follow-up telephone interviews with over one-half of the State Human Service Departments. A Directory of Offices Responsible for Adult Protective Services appears in Appendix II.

- Reviewed all books, periodicals, and newspaper references relating to elder abuse and family violence in the possession of the Library of Congress.

- Reviewed and summarized case histories of abuse forwarded to the Subcommittee by the States. These case histories can be found later in this briefing paper.

- Communicated with numerous organizations and service providers representing the elderly to ascertain their views on the problem of elder abuse.

The Subcommittee was able to reach a number of conclusions. They are as follows:

- o The Subcommittee found that abuse of the elderly is increasing nationally. About 4 percent of the nation's elderly may be victims of abuse from moderate to severe. To put this another way, about one out of every 25 older Americans, or more than 1.1 million persons, may be victims of such abuse each year. This represents an increase of 100,000 abuse cases annually since 1981.

- o The Subcommittee learned that elder abuse is far less likely to be reported than child abuse. While one out of three child abuse cases is reported, only one out of five cases of elder abuse comes to the attention of appropriate authorities.

- o The Subcommittee found that the majority of States — three-quarters or 37 States and the District of Columbia — have enacted State statutes, or adult protective service laws to provide for mandatory reporting of elder abuse. This represents a substantial increase over 1980, when only 16 States had such statutes in place. The Subcommittee found that State action in this area is predicated on the passage of legislation providing financial incentives to the States analogous to child abuse funding. As such legislation has not yet been approved, most States are hard-pressed to carry out these mandates. While it is a shame that the States are only able to spend about $25 for each child State resident, on the average, for child protective services, it is a crime that they spend only $2.90 for each elderly resident. In addition, only about 4.7 percent of the average State's budget goes for protective services for the elderly (a drop of about 2 percent from the 1980 level of State funding for this purpose) — even though about 40 percent of all reported abuse cases involve adults and abused elders.

- o The Subcommittee found that absent the passage of legislation providing assistance to the States in this area, the States are severely hampered in channeling monies into this newly designated social services area — elder abuse protective services — on their own authority. Since 1981, the primary source of Federal funding for State protective services, the social services block grant, has been cut nearly one fifth by direct cuts and inflation. Faced with the clear need to do more, the Federal government is doing considerably less.

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Section I of this briefing paper makes for unpleasant reading. It presents summaries of examples of abuse from every part of the United States. In response to the aforementioned Parade article on elder abuse, the Subcommittee received thousands of accounts of abuse ranging from the systematic theft of a social security check to violent physical abuse, including rape and murder. Also summarized are case histories brought to the Subcommittee's attention over the last five years by concerned individuals and abused elders themselves. Lastly, the States provided the Subcommittee with hundreds of examples of elder abuse which typify situations they encounter on a daily basis.

Physical violence, including negligence, and financial abuse appear to remain the most common forms of abuse, followed by the abrogation of basic constitutional rights and psychological abuse. Most instances of elder abuse are recurring events rather than a single incident. All of the abuse cases have a number of elements in common. For example, it is possible to draw a profile of the most likely victims of elder abuse and those most likely to perpetrate it.

The victims of elder abuse are likely to be old, age 75 or older. Women are more likely to be abused than men. This is in part due to their life expectancy. Women live longer, on the average, than men. The victims are generally in a position of dependency — that is, they are relying on others, be it their family or caregiver, for care and protection.

A profile of the elder abuser also emerges. The likely abuser will usually be experiencing great stress. Alcoholism, drug addiction, marital problems and long-term financial difficulties all play a role in bringing a person to abuse his or her parents. The son of the victim is the most likely abuser, followed by the daughter of the victim. It is interesting to note that the abuser, in many cases, was abused by the parents as a child.

The Subcommittee also found that the abused elder is less likely to report the incident of abuse than abused persons in other age groups. It is apparent that they are often ashamed to admit their children or loved ones abuse them or they may fear reprisals if they complain. Interestingly, since the release of the Committee's 1981 report on elder abuse, the percentage of cases of elder abuse reported has increased. Prior to 1981, only about one in six cases of elder abuse was reported. Today, about one in five cases comes to the attention of protective services.

Section II of this briefing paper recalls the theories for the cause of elder abuse as documented in the earlier Committee report. In sum, there is no single explanation for why elders are abused. Rather, any one or a combination of factors detailed in this section may explain why elders are abused. The abuser may lack community resources to assist him or her in their caregiving role; if mistreated as a child, the abuser may view abuse of the parents as a means of retaliation or revenge; sometimes, after parent and child have been separated emotionally or geographically for lengthy periods, the elderly parent's return is viewed as an intrusion; for certain families, violence is the normative response to stress and is a tradition carried from generation to generation; many middle-aged family members, finally ready to enjoy time to themselves, are resentful of a frail, dependent elderly parent; increased life expectancy is another factor leading to increased incidence of elder abuse — the dependency period of old age has been extended; and there are certain environmental conditions which can precipitate stress, which may then lead to abusive or neglectful behavior — quality of housing, unemployment, alcohol and drug abuse, and crowded living conditions can by themselves or in combination with other factors encourage mistreatment of a dependent elderly person.

Section III of this briefing paper describes data received from the States and supports the following conclusions:

- 37 States and the District of Columbia have what they consider to be adult protective service laws which require mandatory reporting, but these vary widely in scope. There is, however, little consistency among these States as to who is required to report and what penalties will apply when there is a failure to do so.

- The percentage of States' total protective services budgets allocated to elderly protective services has remained disproportionately low. While some 40 percent of all reported abuse cases involve adults and elderly adults, only 4.7 percent of State budgets for protective services are committed to elderly protective services.

- On average, each State in 1984 spent about $1.90 per elderly resident for elderly protective services. The picture is a bit brighter for child abuse victims, for whom the States, on the average, spend about $22 per child resident for child protective services.

- Some 82% of all adult abuse cases reported annually involve elderly victims. The States indicated, however, that only one in five cases of elderly abuse is ever reported. (It should be noted that this is up from one in six in 1980, and that the population of over-65ers has grown from about 25 million in 1980 to almost 28 million today.)

- According to the States, about 4 percent of the Nation's elderly may be the victims of some form of abuse, physical, financial, or emotional, each year. To put this another way, about 1,100,000 older Americans are abused by family, loved ones and caregivers each year.

- The vast majority of the States, about 75 percent, told the Subcommittee that incidence of elder abuse was increasing.

Section IV discusses Congressional and Federal action with respect to elder abuse in the United States, and Section V includes a number of policy options for the consideration of the Congress and the States:

- Since 1981, the primary source of Federal funding for protective services, the Social Services Block Grant, has been cut in real terms nearly one fifth by direct cuts and inflation. Faced with the clear need to do more, the Federal government is doing considerably less.

- The basic recommendation of this briefing paper essentially borrows a leaf from the Aging Committee's report of 1981: that the Federal government should assist the States in their efforts to deal with the pervasive problem of elder abuse. In this regard, the Congress may wish to consider legislation analogous to the Child Abuse Prevention, Identification and Treatment Act of 1974. The bill would provide Federal funds to States which had mandatory reporting laws and provided for immunity from prosecution for persons reporting incidences of abuse, neglect and exploitation. In addition, it would provide for the establishment of a National Center for Elder Abuse.

- Congress should amend Title XX, Medicare, Medicaid and SSI to provide for more social services to families who are caring for an older person, such as respite care, home health services, personal services, homemaker services, home-delivered meals, and adult day care. Obviously, funding for the social services block grant to the States, the primary source of support for protective services, should not be diminished.

- The States should consider enacting mandatory reporting legislation and otherwise upgrading their statutes to provide specific protections to elderly equal to those provided to children.

SECTION I

HOW ARE ELDERS ABUSED? CASE HISTORIES

Since April of 1981, following the release of a landmark report on elder abuse by the Select Committee on Aging,* a continuous flow of mail has been received by the Subcommittee from concerned individuals seeking further information regarding this matter of growing social importance. In all too many instances, these requests for assistance would be accompanied by a plea for help or direction in resolving an ongoing abusive situation.

The Subcommittee viewed this continued outpouring of concern as a sign of increased awareness on the part of the American public that elder abuse was not just an isolated occasional problem. The appearance of a February 17, 1985 Parade article on elder abuse not only reinforced this view but moved the Subcommittee to reevaluate the status of elder abuse in the United States, its incidence, and efforts by the States and the Federal government to identify and prevent its occurrence. In March, 1985, the Subcommittee on Health and Long-Term Care contacted each State's Department of Human Services requesting data on their experiences with elderly abuse. An analysis of the States' response is contained in Section III of this briefing paper. In addition, the Subcommittee asked that case histories be forwarded to the Subcommittee for review. Thousands of case histories poured in detailing personal episodes of abuse of the elderly by their family and loved ones, ranging from simple theft of a social security check to brutal physical violence including rape and murder.

What follows are examples of abuse likely to be encountered by older Americans confronting an abusive domestic situation. The examples are meant to be illustrative, not exhaustive. These shocking examples of the abuse of the elderly by their loved ones are current and virtually all of the States are represented.

The examples which are set forth in this section are entered because this is a way to prove the depth and scope of this serious problem. The Subcommittee does not mean to suggest that States should divert their attention from the plight of abused youth; rather, it is suggested that more attention should be directed to the last years of life as well. As will be later detailed in this briefing paper, the States have acted to enhance their adult protective service laws since this issue first surfaced as a national concern in the early 1980s. Unfortunately, social service budgets have been hard pressed to allow for the concerted effort necessary to carry out the mandates.

It should be understood that there is no uniform state definition for the examples of abuse the Subcommittee has chosen to call elder abuse. Generally speaking, the abuses sustained by the elderly are suffered at the hands of their family, relatives or caregivers. Caregivers are unrelated individuals placed in the role of providing care and services to the aged usually because the seniors have no other relatives living or who will accept this responsibility. By definition elderly abuse involves a pattern or practice of abuse rather than a single isolated incident. For example, a spontaneous shooting of an elder by a loved one would not be regarded as elder abuse if the incident were not preceded by a series of abusive incidents. Rather, it would be regarded as murder.

The categories of abuse which are set forth below include physical abuse, both deliberate physical violence and negligence, sexual abuse, financial abuse, psychological abuse, and violation of rights.

A profile of abused elder and the abuser emerges from these case histories. The abused elder is likely to be an elderly female who is dependent on the services and assistance of another for one or more necessities of daily living. The abuser, on the other hand, was most likely the son or son-in-law suffering from alcohol, drug or emotional problems, or experiencing great stress due to the financial strain associated with caring for an aged relative with a protracted illness.

Physical Abuse

"Physical abuse is conduct of violence which results in bodily harm, or mental distress. It can include assault — putting the elderly in fear of violence — at one end of the spectrum all the way to murder and mayhem at the other end of the spectrum.

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*"Elder Abuse: An Examination of a Hidden Problem," A Report by the Select Committee on Aging, U.S. House of Representatives, 97th Congress, First Session, April 3, 1981, Comm. Pub. No. 97-277.

Physical abuse can be either active or passive. Passive abuse is known as negligence; active abuse includes all manner of aggression against a loved one."*

A. Deliberate Physical Injury

The Subcommittee received hundreds of examples of the deliberate physical injury of senior citizens perpetrated by relatives. This intentional effort to cause harm to another includes beatings, murder, mayhem and false imprisonment — the unjustified denial of another's freedom of movement. Examples include:

- A woman from Nevada related the abuse of her mother by her sister. When the abuses were reported to the legally appointed guardian, who was a good friend of the sister, they were ignored. The mother was beaten; when she was incontinent, feces were rubbed in her face as punishment. The abusive daughter would not allow a visiting nurse to clean or examine her and she suffered from bed sores. The mother was taken to the hospital where she died from complications and the abusive treatment by the daughter, who by this time had depleted the estate of the mother.

- A granddaughter reported that her 78-year-old grandmother was physically and mentally abused by her son and other granddaughters who had moved in with the elderly woman. The grandmother was afraid to let her granddaughter seek legal help. The family doctor has been contacted by the granddaughter and was aware of the situation. His profession reply: "I know she is going through tremendous abuse — what I have seen is physical, but I can't do anything until she asks for help."

- A 59-year-old woman was disabled by severe arthritis and other physical problems. She is less than 5 feet tall and weighs less than 100 pounds. On one occasion, her son hit her in the head with a board. She has a plate in her head as a result of this incident. On another occasion, he picked her up and slammed her body into the ground.

- A 62-year-old Wisconsin woman lived and worked on a farm that she and her (now deceased) husband had lived on for over 40 years; her son now rents this farm. She wished to remain independent but her son tormented her. He destroyed the lawns of the farm, threw cow manure at her home, piled snow against the garage and at one point took her garage door opener so she could not get out. The elderly woman had never abused her son and yet, she says, "he calls me names," "gets drunk and comes in my house and knocks me around," and even "shot over my head — close." He refused to allow his children to help her.

- A 74-year-old woman required emergency room treatment after being beaten in the head with a shoe by her daughter, with whom she was living. The daughter threw her out of the house and the older woman now lives in a personal care home.

- In Alabama, a senior citizen on a fixed income lived alone in his home. His children, in particular three able-bodied sones who do not work, constantly broke into his home any time he left it. Despite the repeated changing of locks, they continued to rob him. They ganged up on him and beat him enough to send him to the hospital three times, once necessitating surgery — maintaining he was drunk when he was in fact working. "I was working until they attacked me in 1975," he states; they also broke his aged mother's arm in three places (some time before 1980, the year of her death). Presently they threaten to kill him and assert if he were "dead and out of the way" they "could live better." His children make him out to be insane, although he has spoken with a mental health counselor who feels he is quite sound. He has been to the police, who do not help him. "I am tired of being treated this way for nothing," he pleads, "so please, please, help me to get this to stop."

- A 78-year-old Ohio woman was hospitalized with a fractured thigh and numerous bruises. The injuries were inflicted by her son, with whom she lives. The woman was competent but refused services.

- Police in Atlanta reported that an older woman was attacked by her 30-year-old

*"Elder Abuse: An Examination of a Hidden Problem," Ibid, p. 3.

son with a butcher knife. He lives in her home and is capable of working, but will not. She therefore continues to support him.

B. Negligence

"Negligence can be defined as conduct which is careless; it is the breach of duty which results in injury to a person or in a violation of rights. There is ample evidence of negligence by relatives and caretakers with devastating consequences to the helpless elderly. This section of this report details a few of these examples collected by the Subcommittee." Examples include:

- A 72-year-old Texas woman, legs and back covered with large open sores, stayed in a small room in the rear of her son's rented house on the outskirts of town. He claimed to be caring for her, but the visiting nurse thought otherwise. Her first few visits found the senile woman asleep on a wet mattress on the floor with half a banana or a chicken leg in her hand. The nurse knew she could not have eaten any of the food because she was unable to raise her arm. Later, the woman became so dehydrated that the nurse asked him to take her to a hospital. He refused until a doctor firmly ordered him to call an ambulance. The mother died a week later.

- An 80-year-old woman, crippled with arthritis, depended on her 50-year-old son for care. She could not even dial a telephone; yet he left her alone all day and part of the night. Before leaving the house he tied her in bed with a rope, then padlocked the bedroom door. A few saltine crackers and a jug of water were placed within her reach. Finally, a nurse was asked to check on the woman, whom she found in a wet bed, sweating in the 90-plus degree room. An investigation revealed severe neglect.

- An 82-year-old bedfast woman was living with her sister, who would neither provide adequate care for the client nor allow anyone else to do so. The client was finally admitted to the hospital suffering from severe malnutrition, with multiple bruises on both arms and decubitus ulcers on both hips, the right knee, and both feet. The entire right hip and buttock was covered by an open decubitus ulcer, with deterioration of tissue to the bone. The woman's muscles were contracted in both arms and legs.

- A woman in her 70's lived with her husband and an adult son. The son is mentally limited. Following a hospitalization, the woman was unable to get out of bed by herself and was not taken out of bed for any purpose for several months. All these months she lay in her own waste. When protective services staff found her, she was covered in maggots and died in a hospital 72 hours later.

FINANCIAL ABUSE

"Financial exploitation involves the theft or conversion of money or anything of value belonging to the elderly by their relatives or caretakers. Sometimes, this theft or misappropriation is accomplished by force — sometimes at gun point. In other cases, it is accomplished by stealth through deceit, misrepresentation and fraud. In most instances, the loss of property by the elderly is immediate, but in a few instances involving undue influence the writing of wills, greedy family members have been willing to wait a few months or even years to acquire the property of a loved one.

In its inquiry, the Subcommittee developed literally thousands of examples which fall into the category of financial exploitation. As is noted from other parts of this report, financial abuse usually is accompanied by physical and psychological abuse. The examples provided below are merely illustrative of this problem. They range from armed robbery of the elderly by their loved ones to larceny of their personal possessions to exotic schemes to defraud them of literally anything of value.

One of the most heartbreaking series of examples involves the elderly who lived independently until an injury or illness necessitated a stay in the hospital. Upon discharge from the hospital, many older Americans have learned to their chagrin that their families have literally sold their homes out from under them. Equally heartbreaking are cases where family members have their loved ones committed to a public institution as a means of obtaining their property.

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*"Elder Abuse: An Examination of a Hidden Problem," Op. Cit., p. 11.

It became apparent to the Committee that to some extent, Federal policy under Medicare/Medicaid and the Supplemental Security Income program encourage the financial exploitation of the elderly. Generally, the exploitation revolves around the decision to place an older person in a nursing home or related institution. Since Medicare pays for only about 2 percent of the nation's total nursing home bill, the elderly must pay these expenses themselves or look to their families. With average charges in American nursing homes running in excess of $24,000 a year and given the fact that no insurance can be found which will pay more than a modest amount of this bill, more and more families have been looking for ways to qualify their loved ones for Medicaid, the welfare nursing home program which is available without limit to the poor. Families have learned that if the elderly divest themselves of their resources and income, they will become eligible for Medicaid.

Many family members rationalize that it is a pity to waste money (even if it belongs to the elderly) on old people near death and that it is somehow compounding the problem to give this money to what they call greedy nursing home owners. For this reason, family members have taken money or property belonging to the elderly and then represented to State Medicaid workers with a straight face that the senior has no property, thus qualifying for Medicaid.

With respect to SSI — a program of cash grants to the poor elderly from the Federal government, the problem is caused by a provision in the law which reduces SSI payments by one-third if the senior lives with related individuals. There is also a provision which bars the receipt of SSI funds for most individuals housed in public institutions. What this means is that more and more old people are being entered in the Federal SSI rolls instead of being taken care of at home. The fact that public institutions are generally unavailable means the elderly are increasingly being placed in private for-profit boarding homes. While the subject of boarding homes was incidental to this study, the Subommittee could not help but be moved by the tremendous number of abuses which were reported in boarding homes. While the matter merits further study, it would appear that boarding homes have replaced nursing homes as the premier havens for institutionalized abuse of the elderly in America. Indeed, a number of victims of boarding home abuse and of abuse at home by loved ones have found nursing homes a pleasant change by comparison. Examples of financial exploitation of the elderly follow:"

- An elderly woman, mother of nine children, was forced to sell her home after her husband's death and share the money with one of her sons. She has been struggling and essentially homeless ever since. While in the hospital, another son promised that if she would give him $23,000 for a home, he would house her in an extra room until death. Weak, she agreed, and never saw him again. After major surgery, a daughter offered her mother a "lousy" room for $100 a week where she had to hire an aide to care for her and make her own meals. The daughter hinted at needing more money for home improvements and the mother "was forced to stay in my dingy room and never to speak or associate. She now lives in a Catholic boarding house where the food is poor. She goes hungry and never sees her children.

- The writer was hired by a niece and nephew to live in with their 85-year-old aunt in California, who had no other relatives. Initially, the nephew had his name on the aunt's bank account. There was constant bickering over the money in the account. The aunt would hide money all over the house and yard in fear of not being able to get her own money from her nephew. The aunt then decided to go to the bank, remove his name and put the niece's name on the account. The niece, who lived some distance away, took the checkbook and wrote checks for expenses that the aunt never incurred. It was later learned that the niece was an alcoholic. These relatives bicker and fight over the woman's money, and badger and brainwash the victim. She suffers from memory loss and lives in constant fear.

- An elderly widow from Maryland tells of her personal sacrifices in giving her daughter an education through college and medical school. After the daughter became a doctor and specialized, she and a male companion closed three bank accounts and took other valuables of her mother's and left the mother penniless. Her home was foreclosed. The daughter abuses the mother psychologically, plays "Gaslight" with her, and once tried to hit her with a chain. Because the daughter

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"Elder Abuse: An Examination of a Hidden Problem," Op. Cit., pp. 13-14.

is a medical doctor, it is difficult for the mother to get authorities to believe the story and to get help.

- A 73-year-old Louisiana man married a woman of 50 who coaxed him into signing over his house and truck to her. She eventually got power of attorney over him and then took over his Railroad Retirement and Social Security checks for herself. Although she ate well, she fed him poorly. He shrank to a mere 117 pounds. When she was drunk, the wife beat the elderly man with his walking cane for having spilled a glass of water, sending him to the hospital. Unfortunately her cousin is the sheriff of their town, so no action was taken; nor did the Health and Human Resources Department file charges against her after interviewing him. The elderly man's daughter has filed suit for his home and truck, but with no luck to date. The wife has also filed suit against the man — according to the daughter in hopes of clearing the title on the house so that she might sell it.

- A heartbroken 88-year-old grandmother from New York trusted her most beloved grandson with everything she owned. She is now destitute because the grandson has taken everything she entrusted to his care. Up to this point the elderly woman had never needed or accepted outside financial help and now she feels hurt and embarrassed that this is her only means of survival at her age.

- A concerned citizen reported a granddaughter who has a good income but is using her grandmother's social security check for personal pleasure. The grandmother has been taking sitting jobs to have money. Her rent and phone are unpaid. The phone has been disconnected. The older woman is afraid to report this to authorities.

- The family of a 90-year-old Minnesota woman expressed concern about the quit claim deed transfer of her property to her son. The legal papers were signed and notarized in September of 1983 by a lawyer for approximately $1,000. The property was sold by this son on a contract deed in October, 1984, with all proceeds in his name. The backdating of the deed was to the son's advantage and was deliberate. At the time of the transaction the mother was in a nursing home.

- An elderly couple was talked into allowing a woman to have power of attorney over them in return for moving into their home as their caregiver. In time, she herded them into a garage room while she lived in their home, and finally to a rest home where she did not allow them to take their clothing. The woman stripped them of their home, car, and assets, estimated at $100,000. When the elderly man recently died, she buried him in "the cheapest casket money can buy."

- An 83-year-old Florida woman with physical problems such as Parkinson's disease, poor vision and poor hearing feared the loss of ability to manage her affairs. She gave her lawyer power of attorney to manage her finances. This lawyer skillfully stole thousands of dollars of hers through the sale of stocks and properties. The legal maneuvers appeared to be within the law, but were not. The dishonest lawyer has been reported to the Florida and New Jersey Bar Associations by the victim's sister.

- In Virginia, the son of an elderly woman held a gun to her head after she was released from the hospital, because she refused to give him her monthly government check. The woman suffered from diabetes but was unable to get proper medication because the son spent all the money, supposedly on drugs for his own use. The home she loved so dearly was filled day and night with her son's friends, most of whom were out of work and high on drugs.

- An elderly woman was hit by a car and befriended by a man who was anxious that the client be compensated for her injuries and discomfort, even though the client insisted that she was not hurt. This "friend," who identified himself as an Equal Employment Opportunity Commission Specialist, proceeded to take the woman to medical appointments for the alleged injury. During that period, the exploiter charged the woman for medical services, dinner, transportation, etc. The exploiter had access to the woman's savings account and the amount withdrawn during the woman's disorientation still has not been determined.

- An ailing Florida man was swindled out of a 40-acre orange grove by a nephew whom he trusted. The nephew fed him liquor with his medications, then threatened him physically until he signed certain forms. The old man had only his Social Security pension left. "I guess I signed too many papers," he said. "I still fear for my life."

Psychological Abuse

"In addition to being abused physically and financially, the elderly can also suffer emotional or psychological abuse at the hands of their relatives. At one end of the spectrum, psychological abuse includes simple name calling and verbal assaults. At the other end, it is a protracted and systematic effort to dehumanize the elderly, sometimes with the goal of driving a person to insanity or suicide. There are few things more pernicious in life than the constant threat by caretakers to throw the elderly into the street or have them committed to mental institutions. The most common weapon used in this warfare is the threat of nursing home placement. This kind of activity is associated more with concentration camps than with private homes where the elderly reside. However, several examples of these almost unspeakable offenses have come to the attention of the Subcommittee. By definition, psychological abuse usually exists in combination with one or more other abuses."

- An official in Massachusetts tells of a woman whose family ostracized her. They ordered her out of the kitchen when the rest of the family ate. They instructed her to stay in her bedroom and not associate with the family. They told her she was not wanted. She ended up in tears on the steps of a church. A police officer eventually brought her to a city shelter.

- An elderly woman in Oregon was forbidden by her daughter-in-law from seeing her three grandchildren, although they lived less than two miles away. She overheard telephone conversations in which the daughter-in-law told one of the grandchildren "Grandma is crazy" and "Grandma hates you. She never wants to see you again."

Sexual Abuse

"Sexual abuse of the elderly by their relatives is a gruesome subject. It needs no further definition and a few examples are sufficient to make the point."

- An elderly woman with cerebral palsy related her experiences in five different nursing homes in which she lived. She was forced to take care of her own personal needs such as bath, shampoo, etc., even though it would take her hours to do so. She was abused sexually by her doctor. At this time her speech was so severely impaired that she could not relate this experience to nurses. She was also suffering from embarrassment and great mental anguish.

- A 65-year-old California woman had an unruly son who was discharged from the Army and came to live with her. He confiscated her benefit checks and threw away her medications for arthritis and pain. He demanded sexual gratification on repeated occasions and kept her in submission by threatening to throw her out in the street if she made his practices known.

Violation of Rights

"All Americans, whether young or old, rich or poor, well or sick, are invested with certain inalienable rights by the United States Constitution. In addition, further rights are conferred by Federal statutes and the interpretation of them (and the Constitution) by Federal Courts. In addition, there are other rights which have been granted to citizens by their respective States through their legislatures and preserved through their charts.

This section of this report sets forth only a few of those enumerated rights along with examples of how these rights have been breached or vitiated by family members who are placed in the position of providing care and assistance to their elders.

1. The right to personal liberty. — The right to move freely, the right not to be imprisoned in one's home, the right to be free from physical restraints, are at the very essence of American democracy. However, the Subcommittee has learned of numerous examples of older Americans being held captive against their will, virtual prisoners in their own homes. There have also been numerous cases of individuals who have been restrained with ropes and wire, tied to their bed as well as locked in their rooms or homes.

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*"Elder Abuse: An Examination of a Hidden Problem," Op. Cit., p. 24.
**"Elder Abuse: An Examination of a Hidden Problem," Op. Cit., p. 13.
***"Elder Abuse: An Examination of a Hidden Problem," Op. Cit., p. 27.

- A daughter wrote in from California regarding treatment her aged mother received in a convalescent hospital. The hospital personnel would tie her mother in a chair and leave her in a crowded room for long periods of time. No attempt was made to treat a bad eye infection. Her mother was beaten up while a patient. When questioned by the daughter, the head nurse said, "We really don't know what happened." The administrator acted unconcerned and took no action. The patient was burned and had to enter the acute hospital and had pneumonia three times. The doctor in the hospital reported that her arm had been fractured near the shoulder. The daughter feels sure this resulted from the beating she suffered at the convalescent home. Pictures were available to prove some of the horrible incidents that take place in such institutions. Authorities showed no interest in the photos.

- Another California case involved a middle-aged man and his sister, who were arrested for holding their 90-year-old aunt a prisoner for four years in a metal shed behind their home. The neighbors ignored her cries for help because the sister said she was crazy.

2. The right to adequate and appropriate medical treatment. — The right to prompt quality medical care and the right to some participation in medical decisions are no less basic to Americans. The Subcommittee has learned of numerous examples where the elderly have been deprived of medical care by relatives who did not want to deplete the senior's assets, spend money of their own or lose the use of the senior's income. The case histories throughout this section confirm the hypothesis that a great number of America's seniors are not receiving the medical care they need. For example:

- A letter from Pennsylvania tells of an elderly, helpless woman who was put in a tub of scalding water and never checked on, even though she screamed and was severely burned. After being removed from the tub, the woman was wrapped in sheets to conceal the burns and was never given treatment. She died from the burns.

- The aged father of the writer died of dehydration and malnutrition while a patient in the custody and care of a nursing home in Louisiana. Apparently the nurses ignored and neglected to provide care for basic hygiene and subsistence. The patient was removed twice from the nursing home in 1984 and 1985 for the conditions described. There are medical records at the hospital to attest to the cause of death.

- An elderly patient in a Texas nursing home bled to death due to neglect. The helpless woman fell out of bed; she lay for hours in a pool of blood until a sitter for another patient heard her crying and ran to the lounge, where the nurses were drinking coffee. Two attendants came, lifted the patient back into bed, mopped the blood from the floor, left the room and did not check again until 8:00 a.m. the following morning. At 8:15 a.m. the woman, dead, was moved across the street to the hospital where the doctor obliged the nursing home manager by signing papers, "cause of death, 'heart attack.'"

- In Arizona, a tiny elderly female patient with severe swallowing difficulties choked to death while being fed. An attendant held plastic over her nose and mouth to force her to swallow. The attempts to revive her were not discussed and a nurse covered for the attendant.

- One ranking nurse with ten years' experience tied a patient in a wheelchair and pushed her into a dark room for punishment. She also, on occasion, slapped a patient, squeezed a woman's mouth to force her to take medicine, and performed other objectionable acts. This is the highest paid nurse on the staff — she earns $8 per hour. The authorities appear to approve of her rough treatment of certain patients, and ignore reports of mistreatment in those cases. The woman writing of the mistreatment does not press charges for fear of losing her job.

- An 84-year-old woman from Washington, D.C., terminally ill of cancer, was denied proper medical attention by her grandson because he didn't want to "dissipate" her income and property on hospital and doctors' bills.

3. The right not to have one's property taken without due process of law. — The Aging Committee files are filled with examples of relatives who have taken the property of the elderly and converted it to their own use. Sometimes this has been accomplished by force or through the use of weapons. In other instances, it has been accomplished by stealth, through deceit and fraud. As the subsection on financial abuse indicates, the elderly are all too often easy victims of schemes to deprive them of their property. For

example:

- The niece of an elderly Missouri woman writes that, while in a nursing home, her aunt "had bruises of one kind or another most of the time." Family members would bring her new bedwear and clothing, which nursing home employees would then confiscate, leaving her only "an old institutional gown and paper slippers." Employees stole clothing from other patients as well. The niece claims that after her aunt was no longer able to feed herself, no one would take the time to feed her, adding to her regression and, most likely, to her death.

- Oklahoma officials reported a case where the title to a woman's home had been turned over to her son, an attorney, apparently without the woman's knowledge or permission. Caseworkers were unable to restore title of the home because of the unavailability of legal assistance.

4. The right to freedom of assembly, speech, and religion. — These protections specifically enumerated in the Bill of Rights have also been abridged and vitiated. Older Americans in many instances have been prevented from communicating with neighbors or friends. They have been prevented from having others in their home. In several instances, they have been denied access to the telephone and not allowed to receive mail unopened. In a number of cases reported, the elderly have been afraid to speak in front of their caretakers. No specific cases were received relating to breaching the right to practice religion. However, it is likely that this right has been abridged by some relatives of some senior citizens somewhere in America. The following is an example of the abrogation of this particular right:

- A frail elderly couple in Maryland reared a grandson, now 36 years old, who has a bachelor's degree but has never been employed. This grandson, who lives at the expense of his grandparents, forbids other relatives to visit them. Because he is physically more powerful than the elderly couple, they abide by his wishes.

5. The right to freedom from forced labor. — The United States Supreme Court has upheld this right and yet many older Americans, as can be seen from the following example, have been forced to work to support indolent sons and daughters who collect the paychecks received by many of the elderly.

- Caseworkers told the Subcommittee about a 67-year-old widow who was regularly beaten by her 35-year-old son. The widow was forced to turn all her property and assets over to the son who stopped working. When the income and money from property had been exhausted, the two subsisted on her $80-a-month social security check. The widow did some babysitting to supplement this income.

6. The right to freedom from sexual abuse. — As noted above, some seniors are not free from sexual abuse by their relatives and in-laws. In some cases, such abuse is carried out by force, sometimes enforced through the use of weapons. For example:

- A 74-year-old woman in New Jersey was beaten and raped by her son-in-law. The woman's daughter demanded that her mother keep silent about it. "I'm warning you," she said. "You won't have a home to sleep in if you say anything about this."

7. The right to freedom from verbal abuse. — Many senior citizens are being verbally abused on a daily basis by their relatives. The seniors often feel that they have little choice but to put up with such abuse. They believe that they are powerless to stop it and should they try, it would mean that care or food would be denied to them or that they would be forced out into the street or into a nursing home. For example:

- A bereaved husband of a Virginia woman relates that his 78-year-old wife required nursing home care after suffering a paralytic stroke. She was often left poorly positioned on a bedpan for long periods of time. When bedpan accidents requiring linen changes occurred, she was cursed and handled roughly by the nurses. The husband was allowed to feed his wife breakfast and dinner but not lunch. The reason given — "to instill self-confidence." She could not feed herself and went hungry at noon. Her weight dropped from 130 to 100 pounds at death. The nurse station light was turned off for coffee breaks and all calls for help were ignored for those periods.

- An older retarded man had lived with his sister for a number of years following the death of their mother. Other family members offered little assistance. The

man had no formal schooling, no self-help skills, and required a good deal of time and care. There began a pattern of harsh verbal abuse and neglect by the sister, and the man became a constant runaway. The situation deteriorated to the point that the man was being physically abused by the sister.

6. The right to privacy. — The U.S. Constitution and related laws recognize a right of all citizens to a certain sphere of privacy. Unfortunately, as can be seen from the examples in the preceding pages, privacy is very often denied to the elderly but their relatives. Quite often the denial of privacy is used as a weapon in the psychological war against the elderly carried out by their caretakers. For example:

- The husband of a West Virginia nursing home patient describes the poor treatment his wife was given. He bought articles of clothing for her which he never saw again after leaving them in her room. Her $150.00 glasses were lost or taken. On one visit, he discovered her, nude to the waist, tied to a chair. He also tells of finding her in a heavily sedated state, lying in bed naked. His wife had to be transferred to a hospital. No explanation was given her by the nurses about what was being done and she was frightened and very upset. The husband feels trauma and poor treatment contributed to her death.

9. The right to a clean, safe living environment. — This right is another which is frequently breached with far-ranging consequences to the elderly. One result from the lack of clean living conditions can be illness, and another can be death. The following example is a violation of this right:

- In South Carolina, a 68-year-old woman living with her daughter was found by a caseworker in conditions of unspeakable squalor. The woman was kept in an unheated portion of the house where the temperature was measured at less than 20 degrees. When found, the woman had eight soiled blankets over her head to keep her warm and the urine from her catheter was frozen. She was also found to be malnourished. She developed pneumonia and was hospitalized.

10. The right not to be declared incompetent and committed to a mental institution without due process of law. — State laws which allow family members to commit their elderly relatives very widely. In some States, it is a fairly easy matter to effect such commitment; in others, it is more difficult. As noted, some elderly people are adjudged incompetent upon affidavits from family members who have their own motives, usually related to obtaining possession of the financial resources of the aged person. For example:

- A 74-year-old Florida woman claims to have been taken to a mental hospital in the middle of the night, committed without the examination of two doctors. Her daughter and a psychiatrist she claims never examined or questioned her signed the commitment papers. Her home was then sold.

11. The right to complain and seek redress of grievances. — Case histories received by the Subcommittee show that oftentimes seniors are not allowed to complain or to seek redress of their grievances from other agencies. Attempts to do so have been met with threats of violence or with reprisals of all kinds, including further loss of rights and privileges. For example:

- A concerned daughter of a Massachusetts woman chronicles her abuse by a series of health care providers, in particular during her stay at a county hospital for the elderly. The mother was repeatedly ignored after complaining of a sore throat, lack of heat in her room, etc., and was threatened with being discharged if she opened her mouth. She was often dehydrated, malnourished, contaminated, kept in a freezing room, left without her oxygen supply turned on, and allowed to lay in sheets wet or dirtied by her feces. She had been yelled at and even been slapped by nurses. When her children would visit her in this hospital and report problems with the mother's care, they were accused of interfering and told to take their mother to a private nursing home. Hospital administrators claimed that "there was no problem," and continually instructed the family "not to talk to anybody" — not nurses, doctors, or other patients and their families.

  Twice when the mother was seriously ill, including once with a stroke, the doctors called the daughter, asking, "What shall we do with her?," leaving the family to phone for an ambulance to remove her to an emergency care facility. The second incidence of this incompetence occurred the night before the mother's death. The windows to her room were purposely left open to cold; and the apparent beating on the face by a nurse contributed to her death.

12. The right to vote and exercise all the rights of citizens. — As can be seen in cases

sent to the Subcommittee, these rights are not always protected. Senior Americans, under the domination of their younger relatives and caretakers, all too often find they are on the outside of the American participatory democracy. It is obvious from the aforementioned cases that the rights of the elderly are often abridged by their own relatives.

13. The right to be treated with courtesy, dignity, and respect. — It goes without saying from all the above that far too many elderly are not being protected in this basic right. For example:

- o 25 elderly, deinstitutionalized residents of a licensed home for adults were removed from the home after it was learned that a cattle prod was being used to punish residents and to motivate them to work.

- o An elderly man in his own home was found with a wash cloth pushed up his rectum. His caretaker had used this method to protect the sheets.

SELF NEGLECT

It should be no surprise to most people to learn that many older Americans neglect their personal needs or that they sometimes abuse themselves. Generally, neglect is a function of diminished physical or mental ability. Self abuse can sometimes be associated with senility or other forms of mental disability brought on by old age. Self abuse and self neglect are also brought on in some cases by external forces whihc cause a conscious or unconscious indifference to one's personal welfare and well being. In the extreme, such cases may end in suicide; it is no secret that suicide rates are very high among the aged in American society.

Within the context of this report, self negect is considered to the extent that such neglect is brought on or exacerbated by the actions of relatives and their attitudes towards their loved ones. Most of the cases received by the Committee involved older people living alone and abandoned by their families. In old age, the social diostances between them and their friends and loved ones have grown wider. According to experts such as Dr. Robert Butler, Mt. Sinai Medical Center, New York City, and Dr. Carl Eisendorfer of the University of Washington, loneliness, despair, and rejection by one's loved ones can often give rise to feelings of worthlessness and serve to snuff out the will to live.

Two cases are provided below to illustrate this point:

- o A 67-year-old Texas woman was reported to be lying in her bed hemorrhaging profusely and in severe pain. She had refused medical assistance because she had no income or insurance. Family members and friends had been unsuccessful in convincing her to enter a hospital, even though "free services" had been arranged. Only after she was found lying on the floor unable to move did she accept hospitalization. Within a month, after other hospital admissions, an SSI application and plans for nursing home care, she died in a hospital.

- o An elderly woman who lived alone in squalid conditions was diagnosed as having senile dementia. She had cardiopulmonary insufficiencies that caused severe edema of feet and legs. Her condition deteriorated to the point that her legs were leaking body fluids and had developed ulcers, upon which rats and roaches had started to feed. Although her condition was life-threatening, she repeatedly refused hospitalization that her doctor recommended. Although a protective service worker obtained court-ordered medical services, the woman died within 36 hours of hospitalization.

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It should be clear from the aforementioned examples that abuse of the elderly is far from a localized, isolated problem. The Subcommittee received case histories from every State. These cases are meant to be illustrative. They are not necessarily the most repugnant.

What follows in Section II is an attempt by the Subcommittee to detail some of the theories which prevail as to why the children, relatives and those entrusted with the care of older Americans turn to abuse as a means for relating to their aged dependants.

SECTION II

THEORIES FOR WHY ABUSE OCCURS

As is the case with most social problems, it is difficult to determine the specific cause or causes of elder abuse, particularly with the limited knowledge base that now exists. Most experts do appear to believe, however, that a major precipating factor is family stress. Meeting the daily needs of a frail, dependent elderly relative may be an intolerable burden for family members. The resulting frustration may sometimes be expressed in violence behavior.

Americans live in a violent society. In Behind Closed Doors,* a landmark book on family violence, it was noted that the first national study of violence in American homes estimated that every other house in America is the scene of family violence at least once a year. Author Richard Gelles states:

> We have always known that America is a violent society. . . What is new and suprising is that the American family and the American home are perhaps as or more violent than any other single American institution or setting (with the exception of the military, and only then in time of war). Americans run the greatest risk of assault, physical injury, and even murder in their own homes by members of their own families.

That family violence occurs, in whatever form — child battering, wife beating, or elder abuse — is so shocking and repulsive that many are reluctant to believe it or understand what brings such behavior to pass. No one theory provides the entire explanation for the cause of family violence. Experts generally agree, however, that any one or a combination of the following factors may explain why our elders are abused by their loved ones.

A correlate to the question, "Why does elder abuse occur?" is "What sort of victim of elder abuse is likely to report the incident?" As has been noted, elder abuse, which runs so contrary to American society's norm for family behavior, is one of the least frequently reported crimes. Recent studies suggest that the type of abused individual most likely to seek assistance is one who has grown up in a benign, stable family setting, and who recognizes elder abuse as the aberration it is. Persons who have grown up in hostile families, where violence and conflict are the norm, are much less likely to view elder abuse as anything requiring a report to authorities.

The dominant theories for elder abuse are described in brief below:

Retaliation. Some experts surmise that elder abuse is a form of retaliation or revenge in which the abuser was mistreated as a child and returns to abuse the parent.

There are often unresolved conflicts between the generations. Some adult children appear almost castrated emotionally from a history of abuse by the parent. Their reaction is to strike back. This may be exacerbated if the elderly parent continues to bait his or her vulnerable child. The response is violent aggression.

Violence as a Way of Life. Another rationale for elder abuse is the widespread acceptance of violence in American society. In the views of many, it is acceptable in this country to express frustration and stress in violent ways. In some families, patterns of violence exist from generation to generation, as a normal response to stress. Also, unresolved conflict, from childhood to mid-life, can cause an elderly relative to become a burden carried with great stress and ambivalence, which increases the risk of abuse.

Lack of Close Family Ties. In families where there is little or no closeness of a relationship between the adult children and their parents, a sudden appearance of a dependent elderly parent can precipitate stress and frustration without the love and friendship necessary to counteract the new responsibilities of adult children. Having lived independently for a large part of their lives, often at a great distance, emotionally

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* Richard J. Gelles, Murray A. Strauss, Suzanne K. Steinmetz, Behind Closed Doors: Violence in the American Family. Garden City, New York: Anchor Press, Doubleday, 1980.

or geographically, from their children, elderly persons who reunite with their offspring may be resented as intruders. Abuse often follows.

Lack of Financial Resources. "Under such circumstances as lack of money and the stress of dealing with a dependent older person, normal people often lash out against their elders, stated Dr. Susanne Steinmetz of the University of Delaware. The pressure and frustrations of family and financial problems is often cited by experts as a factor which drives many family members to abusive behavior.

Many families caring for elderly parents or grandparents live on either fixed incomes or strict budgets during these challenging economic times, with inflation, high unemployment and soaring fuel costs. Also, the increasing medical costs associated with the care of an older family member can often go beyond the depleted savings of the elderly parent and the penny-pinched resources of his or her children. The stresses associated with insufficient income, combined with the inherent stress of providing daily care for an individual who requires a considerable amount of assistance with daily living tasks, can often become overwhelming and precipitate physical abuse and neglect.

Adding to an already tense financial situation is the fact that women, the primary caregivers in families, are increasingly entering the workforce. Should this daughter or daughter-in-law quit her job and stay home to care for her elderly parent, thus loosing her sense of freedom, independence, as well as financial reward, or should she stay at home to care full-time for the dependent parent? The dilemma is that she will be financially strapped either way. If she works, she must find someone else to care for the parent during the day, and if she does not work, she loses the additional income needed by the family, for basic necessities as well as the increased medical bills for the care of the elderly parent.

Unfortunately, this overtaxing of a family's resources is sometimes exacerbated by Federal and State government policies that limit or reduce benefits and services to elderly people when they live with their families. For example, the Federal Supplemental Security Income (SSI) program provides a minimum income floor to low-income aged, blind and disabled individuals. However, when an eligible individual is living in the household of another individual and receiving support or in-kind maintenance from that person, the monthly SSI benefit is reduced by one third. Another example is the Medicare program, the Federal health insurance program for persons over the age of 65. The Medicare program provides home health services, but they are contingent on numerous requirements and do not cover the ongoing non-medical care and services that a dependent elderly person often needs to assist him or her to remain at home.

On the other hand, Medicaid, a Federal-State matching program that provides medical assistance for certain low-income persons, including the elderly, is structured to extensively subsidize nursing home care but offers less assistance to elderly individuals who wish to remain in their own homes.

Resentment of Dependency. Caring for a frail elderly parent, who requires a considerable amount of assistance, can be a very draining experience. Often the caregiver can become overwhelmed with the infringement this places on his/her own time. A child can feel trapped by the burden of caregiving at a time of anticipated independence from child rearing. This can lead to frustration, anger and resentment, precipitating some form of abuse.

Increased Life Expectancy. — Associated with dependency is the dramatic increase in life expectancy, with more people reaching age 75 and over than ever before in history. Recent studies reveal that the "old-old" group, those over 85 years of age, is the fastest growing segment of the population in this country. This means the dependency period of old age has been extended, leaving caretakers to provide extensive home care for a longer length of time. Because the fertility rate has dropped considerably, it also means that there will be fewer middle-aged adult children to care for their elderly parents and grandparents.

History of Personal or Mental Problems. — In families where the adult child has a history of personal or pathological problems, a potential for abuse exists. In numerous cases reviewed by the Subcommittee, mentally impaired children were responsible for abusing their parents. Family members appear to become the objects of such abusive behavior because of their proximity to the abuser. Some crisis will set off the abuser, who strikes out at the nearest person or object.

Unemployment. — Unemployment is a major stress-producing experience for most individuals. It is even more stress-producing if it occurs at middle age. Experts observe that intra-family violence occurs much more frequently when the major income-producing member (generally the adult-male-husband) is unemployed. This theory has

proven to be true in many cases of spouse and child abuse and appears to be a significant problem triggering elder abuse.

History of Alcohol and Drug Abuse Problems. — The Subcommittee found many instances of abuse in which the abuser was experiencing substance abuse problems. Consistent consumption of alcohol and drugs is readily identifiable as contributing to family violence. Because alcohol acts as a depressant, the effect seems to depress aggression inhibition systems, thus making aggressive behavior much more likely.

Environmental Conditions. — Certain environmental factors can precipitate stress, which may then lead to neglectful or abusive behavior of family members, especially the frail elderly person forced to seek assistance in the basic tasks of daily living. Quality of housing, unemployment, intra-family conflict, alcohol and drug abuse, neighborhood and crowded living conditions can by themselves or in combination with other factors encourage mistreatment of a dependent elderly person.

SUMMARY

As noted previously, several of these factors may be present, and the combination is likely to precipitate abuse of the elderly. In a number of other cases, abusive behavior toward the aged is inexplicable. Because so little is known about elder abuse compared with child abuse, it is likely that social scientists will discern still other factors when the subject is studied in detail.

SECTION II

SURVEY OF THE STATE HUMAN SERVICE DEPARTMENTS

The States have the primary responsibility for protecting the rights of all their citizens, young and old alike. One finds, following a review of the literature, that all States have active programs underway to protect the rights of juveniles. It is interesting to note that the majority of States enacted effective child protective services laws and statutes following the enactment of the Child Abuse Prevention and Treatment Act of 1974, which provided incentives to the States to enact such statutes designating a specific state agency as responsible for identifying, treating, and preventing child abuse — as well as a national Clearinghouse on Child Abuse to serve as a central collection agency on the incidence and research related to child abuse. However, it is clear that States have come to recognize that abuse does occur at the other end of the age spectrum and have begun to act accordingly.

In order to learn to what extent the States have acted with respect to this serious social problem, Congressman Claude Pepper, Chairman of the Subcommitte on Health and Long-Term Care of the House Select Committee on Aging directed a national field survey in March of 1985 (the text of this questionnaire can be found in Appendix I of this briefing paper on page to all State Human Services Departments. As Table I indicates, 46 States plus the District of Columbia reported that their Department did have an office responsible for providing adult protective services and assisting abused elders.

This section summarizes the responses received from the States. Even though the data are less than comprehensive, what emerges is a national picture of a desparate problem that has only recently come to the attention of the American public. The results of the survey reinforced the Subcommittee's suspicions that elder abuse has increased since 1981 and that swift and determined action must be taken to deal with this national problem.

Overview

The Subcommittee believes that one would benefit from some of the comments made by State officials entrusted with the responsibility for responding to the Subcommittee's questionnaire.

Th Subcommittee surveyed various State agencies who play a role in the elder abuse problem. Some of the more pertinent comments on selected agency policies and activities are as follows:

Alaska has been involved in a public education campaign concerning the elder abuse problem. Alaska officials suspect more incidents of elder abuse occur than are reported, even though their Elder Abuse Act which passed September 28, 1983 requires that the Division of Family and Youth Services be notified of such cases. It was pointed out that victims in non-reported cases would be useful in justifying additional funds in State budgets for Family and Youth Services.

Indiana has very new legislation regarding protection for endangered adults and no service system was in place prior to enactment of this law.

Louisiana law requires mandatory reporting to their Department of Health and Human Resources of suspected cases of abuse or neglect of adults who cannot physically or mentally protect themselves. The Department of Health and Human Resources will investigate these reports and will arrange for whatever care, health services, etc. are needed to insure the safety and welfare of the endangered adults.

Massachusetts operates and Elder Protective Services Program. Certain professionals within the State are mandated by law to report cases of suspected elder abuse. It is the intent of the State to monitor and evaluate the program so that a strong, responsive and reliable system will be in place to serve abused and neglected elders.

It is a matter of public policy in **Minnesota** to protect adults who are vulnerable to abuse or neglect due to physical or mental disability. The protection includes providing safe institutional or residential services or living environments for abused or neglected adults. Reports of adult abuse or neglect are investigated by the State and appropriate action is taken based on the findings.

Mississippi does not have an adult protective services law except for individuals who reside in personal care homes. However, efforts are being made to obtain such legislation.

Missouri operates telephone hotlines for the purpose of receiving elder abuse complaints. In FY 84, 9310 calls were received. Follow-up investigations are conducted and appropriate services are provided including counseling, protective services and alternative living arrangements.

Nebraska reported that the number of elder abuse cases received in 1984 totaled over 1,000 (compared with 50 in 1980). The complexity of the Nebraska cases has also changed between 1980 and 1984. In 1980, 75 percent of their cases involved a self-abuse situation. In 1984, 56 percent of the cases were self-abuse problems while 44 percent involved relatives, friends, caregivers and other outsiders.

In **New Hampshire**, reports of elder abuse are received by adult services social workers in 12 district offices throughout the State. Frail and incapacitated elderly individuals are recognized as particularly vulnerable to abuse, neglectg and exploitation at the hands of family members, caretakers and other individuals.

While **New Jersey** does not have legislation establishing statewide adult protective services, the Department of Human Services operated four pilot programs in 1984 and is initiating two research projects to help assess need and plan service delivery. Additional programs are planned for 1985.

Oklahoma has had adult protective services legislation since 1977. It has been amended several times and currently insures that any incapacitated person over 18 is protected.

Adult protective services in **Texas** is a program within the Services to the Aged and Disabled. Texas has had a mandatory reporting law since 1981 and it was amended in 1983 to include disabled adults. Over 2000 cases involving adult protective services are handled each month and over 800 investigations of new reports are conducted monthly.

Vermont reports that the majority of its elder abuse cases concern individuals who do not reside in facilities. The cases normally involve minor physical abuse, spouse abuse and neglect. A few instances of exploitation have also been reported.

Wisconsin has two laws which deal with elder abuse. The Adult Protective Services law focuses on the wide range of adult protective service needs, including those suffering from the infirmities of aging. The elder abuse law specifically targets persons over 60 years of age. The State Office on Aging has the responsibility for planning and assisting the counties in their elder abuse efforts, but provides no actual services. County social service agencies are the service providers. However, no money is earmarked directly for elder abuse and each county can utilize its community aid funds at its own discretion in this area.

As noted, the primary tone of the responses from the States was positive. All agree that elder abuse is a problem of major concern and dimensions.

The following section describes the States' specific responses to the Subcommittee's questionnaire.

Budget and Resources

The first section of the Subcommittee questionnaire was an effort to elicit from the State Departments of Human Resources information on the amount of funds allocated for protective services, child protective services, and elderly protective services.

Question 1 in this section asked the States what their total budget for all protective services was in 1984. Table II displays the States' responses to this question. The average State budget in 1984 was approximately $26 million. California reported spending the most at $273 million, with New Jersey and Texas next with $101 and $98 million respectively. Connecticut reported spending the least with a total protective services budget of $457 thousand followed by Utah with $868 thousand.

The second question in this section asked the States what portion of their total 1984 protective services budget went towards protective services for the elderly. Table 2 also contains the states' responses to this question. The average state budget for elderly protective services in 1984 was approximately $1.3 million. There was great variation among the states. Elderly protective services budgets ranged from a high of $8.8 million in New York, to a low of $14 thousand in Utah. Two states indicated that no monies were specifically earmarked for the provision of protective services to persons over 65.

A third question in this section asked the States to provide their budget for child protective services in 1984. Table II, which displays these State budgets, confirms that the States are spending the majority of their protective services monies for children. A quick glance at this table reveals, for example, that Florida's total budget for protective services, $28 million went towards child protective services, while only $1.9 million went towards elderly protective services. The average State spent some $24.5 million for child protective services with the California leading the states in spending $201 million.

The Subcommittee felt it important to know what these budget figures translated to in terms of individual elderly Americans. To do this, a per capita expenditure was calculated by dividing each State's total budget for elderly protective services by the number of State residents over the age of 65. The results of this calculation are displayed in Table III.

As Table III reveals, the States are spending very little per elderly person for protective services. On average, each state in 1984 spent only $2.91 per older person for the provision of elderly protective services. This ranged from a high of $12.71 in Idaho, to a low of 11 cents in Utah. Nine States spent less than one dollar for every elderly resident while 18, or roughly half the States responding, spent less than $2.00 per elderly person for the provision of elderly protective services.

The Subcommittee was also interested in learning how these figures compared to what States are spending per child for child protective services. The figures, displayed in Table III, indicate that while the amounts are still quite modest, States are spending considerably more per child for child protective services than for each elderly person for elderly protective services. On average, each State in 1984 spent $22.14 per child resident for child protective services. On average, each State in 1984 spent $22.14 per child resident for child protective services, nearly ten times the comparable average for the elderly. Expenditures ranged from a high of $139.67 in Alabama to a low of $1.12 in Michigan. Some 16 States therefore reported spending less per capita for elderly protective services than the lowest ranking State in per capita child protective services expenditures.

ABUSES

The second part of the Subcommittee's questionnaire was an effort to collect data on the number of elder abuse cases reported to the states in the past year, to determine whether the incidence of elder abuse is increasing and to quantify the kinds of elder abuse by type, perpetrator and victim.

The first question in this section asked the States to report the number of adult abuse cases that came to their attention in 1984. Over two thirds of the States responded with Pennsylvania and Texas reporting the largest number of such cases with approximately 11,000 and 8,000 respectively.

The second question in this section asked the States to estimate the percentage of these adult abuse cases which were perpetrated against the elderly. Again, over two thirds of the States responded. The average estimate of these States is that some 82 percent of all adult abuse cases involve elderly victims. This represents a significant increase in States' 1980 estimates that roughly 60 percent of these cases involved senior citizens. (See Table IV.)

Another question in this section, asked the States to identify the types of abuse perpetrated against the elderly in cases that had come to their attention. Every state responding indicated that they had received recent cases of physical abuse. All of these States had also encountered cases of psychological abuse of older persons. All but one State, Minnesota, reported having received complaints of material or financial abuse and violation of personal rights involving elderly victims. A number of States reported other types of elder abuse including self neglect, sexual abuse and assault. (See Table V.)

In this section of the Subcommittee questionnaire, the States were also asked if they were of the belief that a significant percentage of all elder abuse cases go unreported each year. Every State with the exception of Kansas answered in the affirmative. (See Table VI.) Another question in this section asked to estimate the number of unreported cases in 1984.

From the information provided to the Subcommittee by the States on the rate of elder abuse cases reported and unreported annually, an estimate of the annual incidence of elder abuse nationally was derived. To draw this estimate the Subcommittee chose the ten States which provided the most complete data on the incidence of elder abuse. These States included Alabama, Colorado, Georgia, Kentucky, Michigan, Missouri, New Jersey, Pennsylvania, Tennessee and Washington, and in 1983 were home to 7.3 million individuals over the age of 65, or roughly one quarter of all senior citizens nationally.

These ten selected States reported 53,039 actual cases of elder abuse of 1984. Additionally, they estimated that another 213,000 cases of such abuse went unreported. In other words, the States which had such data indicated that only one in five cases of elderly abuse is every reported. However, it should be noted that this is up from one in six in 1980, and that the population of over 65-ers has grown from 25 million in 1980 to almost 28 million today.

Even these data, clear and straightforward as they seem, have their limitations. A number of the States responding were not clear as to whether cases they reported included multiple instances of abuse perpetrated against one elderly person. It was also not clear from the data whether some States counted the reporting of abusive acts against more than one elderly person, a father and mother, for example, by one person as a single case.

With these limitations understood, the Subcommittee divided the number of reported and estimated unreported cases of elder abuse in these ten selected States (265,039) by the number of individuals in these States over the age of 65 (7,336,000). The conclusion from this calculation is that approximately 3.6 percent of the elderly in these States may be the victims of some form of elder abuse.

Assuming these figures can be applied nationally, the problem of elder abuse has reached epidemic proportions. If one out of every 27 older Americans is the victim of some form of abuse, as the Subcommittee's data suggest, a staggering 1.1 million plus of our nation's elderly are falling victim each year.

It is alarming that this national disgrace shows no sign of abetting. In fact, it is ever increasing. The vast majority of States told the Subcommittee that they believed the incidence of elder abuse was rising. (See Table VII.)

STATE REGULATORY ACTION

The final section of the questionnaire asked the States whether their statutes require the mandatory reporting of elder abuse cases — a device so important in the identification, treatment and prevention of child abuse today. As Table VIII indicates, 37 States and the District of Columbia currently have statutes that provide for the mandatory reporting of elder abuse. Who is require to report, however, varies considerably from State to State. For example, in Alabama, only medical doctors are required to report, yet there are numerous other likely to encounter an abused elder who, in the words of a Blount County, Alabama, Protective Service Director, "should also be required to report in order to bring abused elders to appropriate avenues of assistance." For the most part, State statutes also incorporate a provision allowing anonymity for the reporter. All but three States protect the reporter from civil or criminal liability for the content of the report.

Several State officials commented that this kind of mandatory reporting law is crucial to alleviating the problem of elder abuse which involves family members who quite often keep a case from coming to the attention of authorities. The number of States with mandatory reporting laws represents a substantial increase over the 1980 level. Only 16 States had mandatory reporting provisions at that time. It is obvious that, since 1980, the States have acted quickly to ensure that their statutes were in compliance with pending Congressional legislation providing financial incentives to those States with mandatory reporting provisions.

TABLE 1

DOES YOUR DEPARTMENT HAVE AN OFFICE WHICH IS RESPONSIBLE FOR PROVIDING ADULT PROTECTIVE SERVICES AND ASSISTING ABUSED ADULTS?

STATE	YES	NO
Alabama	X	
Alaska	X	
Arizona	X	
Arkansas	X	
California	X	
Colorado	X	
Connecticut	X	
Delaware	X	
Florida	X	
Georgia	X	
Hawaii	X	
Idaho	X	
Illinois	X	
Indiana	--	--
Iowa	X	
Kansas	X	
Kentucky	X	
Louisiana	X	
Maine	X	
Maryland	--	--
Massachusetts	X	
Michigan	X	
Minnesota	X	
Mississippi	X	
Missouri	X	
Montana	X	
Nebraska	X	
Nevada	X	
New Hampshire	X	
New Jersey	X	
New Mexico	--	--
New York	X	
North Carolina	X	
North Dakota	--	--
Ohio	X	
Oklahoma	X	
Oregon	X	
Pennsylvania	X	
Rhode Island	X	
South Carolina	X	
South Dakota	X	
Tennessee	X	
Texas	X	
Utah	X	
Vermont	X	
Virginia	X	
Washington	X	
West Virginia	X	
Wisconsin	X	
Wyoming	X	
District of Columbia		
TOTAL	46	0

TABLE II

STATE	1984 Protective Services Budget	1984 Elderly Protective Services Budget	1984 Child Protective Services Budget
Alabama	19,259,072	2,001,533	
Alaska	13,368,300	2,179,300	9,809,400
Arizona	1,300,000		
Arkansas			29,959,600
California	273,200,000		207,800,000
Colorado	19,000,000	1,950,000	16,000,000
Connecticut	457,000		
Delaware	NA	60,000	NA
Florida	35,310,537	1,963,656	28,962,385
Georgia	46,609,498	2,100,000	42,475,570
Hawaii	2,900,800	100,000	2,683,218
Idaho	5,762,300	1,335,100	3,378,500
Illinois	67,209,700	270,000	65,239,700
Indiana	NA	NA	NA
Iowa	3,214,000	0	3,039,000
Kansas	0	0	0
Kentucky	16,641,305	1,400,000	13,532,861
Louisiana	8,598,154	240,000	8,202,199
Maine	4,999,000	700,000	3,800,000
Maryland			
Massachusetts			
Michigan	16,800,000	740,000	15,400,000
Minnesota	18,660,000	2,200,000	12,800,000
Mississippi	3,970,158	160,000	3,766,863
Missouri	31,350,000	5,540,000	25,900,000
Montana	11,534,000	710,000	10,498,000
Nebraska	2,675,000	225,000	2,225,000
Nevada	5,731,720	155,372	5,576,348
New Hampshire		366,839	NA
New Jersey	101,400,000	2,100,000	99,400,000
New Mexico			
New York	88,400,000	8,850,000	70,800,000
North Carolina	10,731,226	1,630,732	8,556,917
North Dakota			
Ohio	28,077,323	2,945,000	23,965,171
Oklahoma	7,371,311	NA	6,993,492
Oregon			
Pennsylvania		1,412,695	2,620,000
Rhode Island		106,000	7,439,385
South Carolina	9,003,768	900,000	3,116,000
South Dakota	4,341,600	560,000	14,854,200
Tennessee	18,300,000	2,300,000	54,267,611
Texas	98,741,602	2,287,984	848,823
Utah	868,000	14,000	10,483,230
Vermont	11,109,897	67,487	12,345,288
Virginia	15,323,076	2,080,000	7,737,297
Washington	8,127,133	262,000	6,045,000
West Virginia	6,645,000	300,000	NA
Wisconsin	NA	NA	6,000,000
Wyoming	7,000,000	108,000	
District of Columbia			
TOTAL	$1,023,525,000	$48,119,698 (4.7%)	$885,511,000 (86.5%)
STATE AVERAGE	$26,934,868	$1,336,519	$24,597,528

TABLE III

STATE	1984 Budget Per Elderly Resident	1984 Budget Per Child Resident
Alabama	6.22	139.67
Alaska		57.20
Arizona	6.12	
Arkansas		46.02
California		31.72
Colorado	7.22	21.05
Connecticut		
Delaware	0.95	
Florida	1.05	8.89
Georgia	3.73	26.18
Hawaii	1.12	9.45
Idaho	12.71	10.62
Illinois	0.20	20.99
Indiana		
Iowa	0.00	3.86
Kansas	0.00	
Kentucky	3.24	13.03
Louisiana	0.56	2.80
Maine	4.69	
Maryland		
Massachusetts		3.91
Michigan	0.75	1.12
Minnesota	4.33	11.34
Mississippi	0.53	4.71
Missouri	8.21	19.75
Montana	7.63	44.86
Nebraska	1.05	5.05
Nevada	1.91	24.35
New Hampshire	3.29	
New Jersey	2.27	53.15
New Mexico		
New York	3.98	16.01
North Carolina	2.44	5.34
North Dakota		
Ohio	2.35	8.24
Oklahoma		
Oregon		
Pennsylvania	0.86	
Rhode Island	0.78	11.54
South Carolina	2.80	8.02
South Dakota	5.81	15.27
Tennessee	4.15	11.90
Texas	1.55	20.31
Utah	0.11	1.39
Vermont	1.08	74.88
Virginia	3.75	8.89
Washington	0.55	6.69
West Virginia	1.19	11.19
Wisconsin		
Wyoming	2.70	37.73
District of Columbia		
STATE AVERAGE	$2.91	$22.14

TABLE IV

WHAT PERCENTAGE OF THOSE CASES (ADULT ABUSE CASES) INVOLVED PERSONS OVER THE AGE OF 65?

STATE	% over 65 in 1984	% over 65 in 1983
Alabama	60	--
Alaska	54	--
Arizona	75.5	--
Arkansas	--	--
California	--	--
Colorado	50	50
Connecticut	--	--
Delaware	65	60
Florida	--	--
Georgia	--	60
Hawaii	76	66
Idaho	--	--
Illinois	--	--
Indiana	--	--
Iowa	62	62
Kansas	28	23
Kentucky	37	36
Louisiana	64	64
Maine	65	61
Maryland	--	--
Massachusetts	90	--
Michigan	50	50
Minnesota	92	92
Mississippi	--	--
Missouri	99	99
Montana	50	--
Nebraska	50	43
Nevada	83	--
New Hampshire	--	65
New Jersey	53	--
New Mexico	--	--
New York	--	--
North Carolina	75	--
North Dakota	--	--
Ohio	--	--
Oklahoma	77	69
Oregon	75	75
Pennsylvania	--	--
Rhode Island	85	84
South Carolina	60	57
South Dakota	--	--
Tennessee	71	67
Texas	84	72
Utah	67	59
Vermont	86	96.5
Virginia	70	70
Washington	67	61
West Virginia	50	50
Wisconsin	--	--
Wyoming	90	90
District of Columbia	--	--
STATE AVERAGE	81.5%	64.7%

TABLE V

STATE	Physical Abuse	Psychological Abuse	Material or Financial Abuse	Violation of Rights	Other
Alabama	X	X	X	X	
Alaska	X	X	X	X	
Arizona	X	X	X	X	Neglect
Arkansas					
California	X	X	X	X	
Colorado	X	X	X	X	Neglect
Connecticut					
Delaware	X	X	X	X	Sexual Abuse
Florida	X	X	X	X	
Georgia	X	X	X	X	Neglect
Hawaii	X	X	X	X	Neglect
Idaho	X	X	X	X	
Illinois	X	X	X	X	
Indiana					
Iowa	X	X	X	X	
Kansas	X	X	X	X	
Kentucky	X	X	X	X	
Louisiana	X	X	X	X	
Maine	X	X	X	X	
Maryland					
Massachusetts	X	X	X	X	
Michigan	X	X	X	X	
Minnesota	X	X			
Mississippi					
Missouri	X	X	X	X	
Montana	X	X	X	X	
Nebraska	X	X	X	X	
Nevada	X	X	X	X	
New Hampshire	X	X	X	X	Sexual Abuse
New Jersey	X	X	X	X	
New Mexico					
New York					
North Carolina	X	X	X	X	
North Dakota					
Ohio	X	X	X	X	
Oklahoma	X	X	X	X	
Oregon	X	X	X	X	Neglect
Pennsylvania	X	X	X	X	
Rhode Island	X	X	X	X	Sexual Abuse
South Carolina	X	X	X	X	Sexual Assault
South Dakota	X	X	X	X	
Tennessee	X	X	X	X	
Texas	X	X	X	X	Neglect
Utah	X	X	X	X	Neglect
Vermont	X	X	X	X	Neglect
Virginia	X	X	X	X	
Washington	X	X	X	X	
West Virginia	X	X	X	X	
Wisconsin	X	X	X	X	
Wyoming	X	X	X	X	Neglect
District of Columbia					

Experts have indicated that many elderly are abused by their children, relatives, or caretakers in obvious as well as subtle ways. The following section of this questinnaire is to ask if you have ever received complaints of any of the following practices:?

80-848 O—85——8

TABLE VI

IS IT YOUR OPINION THAT A SIGNIFICANT NUMBER OF ELDER ABUSE CASES GO UNREPORTED ?

STATE	YES	NO
Alabama	X	
Alaska	X	
Arizona	X	
Arkansas	--	--
California	X	
Colorado	X	
Connecticut	--	--
Delaware	X	
Florida	X	
Georgia	X	
Hawaii	X	
Idaho	X	
Illinois	X	
Indiana	X	
Iowa	X	
Kansas		X
Kentucky	X	
Louisiana	X	
Maine	X	
Maryland	--	--
Massachusetts	X	
Michigan	X	
Minnesota	X	
Mississippi	X	
Missouri	X	
Montana	X	
Nebraska	X	
Nevada	X	
New Hampshire	X	
New Jersey	X	
New Mexico	--	--
New York	--	--
North Carolina	X	
North Dakota	--	--
Ohio	X	
Oklahoma	X	
Oregon	X	
Pennsylvania	X	
Rhode Island	X	
South Carolina	X	
South Dakota	X	
Tennessee	X	
Texas	X	
Utah	X	
Vermont	X	
Virginia	X	
Washington	X	
West Virginia	X	
Wisconsin	X	
Wyoming	X	
District of Columbia	--	--
TOTAL	43	1

TABLE VII

WOULD YOU SAY THAT THE INCIDENCE OF ELDER ABUSE IS INCREASING?

STATE	YES	NO
Alabama	X	
Alaska	X	
Arizona	X	
Arkansas	--	--
California	X	
Colorado		X
Connecticut	--	--
Delaware	--	--
Florida	X	
Georgia	X	
Hawaii	X	
Idaho	X	
Illinois		X
Indiana	--	--
Iowa		X
Kansas	X	
Kentucky	X	
Louisiana	X	
Maine	X	
Maryland	--	--
Massachusetts	X	
Michigan		X
Minnesota	X	
Mississippi	X	
Missouri		X
Montana	X	
Nebraska	X	
Nevada	X	
New Hampshire	X	
New Jersey	X	
New Mexico	--	--
New York	--	--
North Carolina	X	
North Dakota	--	--
Ohio	X	
Oklahoma	X	
Oregon	X	
Pennsylvania	X	
Rhode Island	X	
South Carolina	X	
South Dakota	X	
Tennessee	--	--
Texas	X	
Utah	X	
Vermont	X	
Virginia	X	
Washington	X	
West Virginia	X	
Wisconsin	X	
Wyoming	X	
District of Columbia		
TOTAL	36	5

TABLE VIII

DOES YOUR STATE HAVE A LAW REQUIRING MANDATORY REPORTING OF ELDER ABUSE ?

STATE	YES	NO
Alabama	X	
Alaska	X	
Arizona	X	
Arkansas	X	
California	X	
Colorado		X
Connecticut	X	
Delaware		X
Florida	X	
Georgia	X	
Hawaii	X	
Idaho	X	
Illinois	X	
Indiana	X	
Iowa		X
Kansas	X	
Kentucky	X	
Louisiana	X	
Maine	X	
Maryland		
Massachusetts	X	
Michigan	X	
Minnesota	X	
Mississippi		X
Missouri	X	
Montana	X	
Nebraska	X	
Nevada	X	
New Hampshire	X	
New Jersey		X
New Mexico		
New York		
North Carolina	X	
North Dakota		
Ohio	X	
Oklahoma	X	
Oregon	X	
Pennsylvania		X
Rhode Island	X	
South Carolina	X	
South Dakota		X
Tennessee	X	
Texas	X	
Utah	X	
Vermont	X	
Virginia	X	
Washington	X	
West Virginia	X	
Wisconsin		X
Wyoming		X
District of Columbia	X	
TOTAL	38	9

SECTION IV

THE FEDERAL RESPONSE TO ELDER ABUSE

A. Congressional Action

State advocates of Federal involvement in the area of protective services for elders suggest that one way to encourage states to make the statutory and administrative changes would be to make Federal funding for elder abuse-related programs contingent on certain state-level requirements. The Child Abuse Prevention and Treatment Act uses this approach in distributing funds to the states for child abuse-related program, and almost every state has come into compliance with the requirements. The proposed Prevention, Identification and Treatment of Elder Abuse Act of 1981 uses this method to encourage states to modify their elder abuse-related laws and procedures. This would be an important step n controlling unwarranted violence against the aged.

The Federal response to the problem of elder abuse has, at best, been inadequate. Congress in 1980 came very close to enacting legislation which would have provided funds for shelters to aid victims of elder abuse. Other measures have died before passage.

In 1981, Chairman Pepper introduced with Congresswoman Mary Rose Oakar of Ohio H.R. 769, the Prevention, Identification and Treatment of Elder Abuse Act of 1981. This bill proposed creation of a National Center on Elder Abuse under the Secretary of Health and Human Services to compile, publish and disseminate information about programs and special problems related to elder abuse, neglect, and exploitation. The bill would have provided assistance to states which provided for the reporting of known and suspected incidences of elder abuse, neglect and exploitation; provides that upon receipt of such a report an investigation will be initiated and steps taken to protect the abused, neglected or exploited adult; have in effect administrative procedures, trained personnel, institutional and other facilities, and multi-disciplinary programs and services to deal effectively with the special problems of elder abuse, neglect and exploitation; provides for the confidentiality of records; provide for the cooperation of law enforcement officials, courts and appropriate agencies providing human services, with respect to special problems of elder abuse, neglect and exploitation; provides that the least restrictive alternatives are made available to the abused, neglected or exploited participate in decisions regarding his or her welfare.

H.R. 769 was referred to the Committees on Education and Labor, and Energy and Commerce. It enjoyed 84 cosponsors but did not pass.

In 1983 (98th Congress), Congresswoman Oakar and Chairman Pepper introduced the measure again as H.R. 3833. It too was referred to the Committees on Education and Labor, and Energy and Commerce, but failed to pass the House.

Elder abuse prevention was the subject of legislation under two bills enacted during the 98th Congress. The Child Abuse Amendments of 1984 (P.L. 98-457) contain authorization for support of demonstration grants to establish, maintain and expand programs to prevent incidents of family violence and to provide shelter and related assistance for victims and their dependents. Older persons who are victims of family violence would be served under this program. In addition, the law requires the Secretary of Health and Human Services to operate a National Clearinghouse on Family Violence Prevention. The Clearinghouse would be charged with collecting and disseminate information on family violence, including elder abuse, and provide information about sources of assistance and shelter to victims. Regrettably, no FY 1985 appropriations were made available for these provisions of the Child Abuse Amendments.

The Older Americans Act amendments of 1984 (P.L. 98-459) required area agencies on aging to assess the need for elder abuse prevention services and the extent to which the need is being met within each planning and service area. In addition, the law adds a new state plan on aging requirement to govern the conduct of elder abuse prevention activities when the state agency on aging opts to provide such services. Under this provision, the state plan must assure that any area agency carrying out elder abuse prevention activities will conduct its program consistent with state law and be coordinated with existing state adult protective services activities. The program is to consist of public education to identify and prevent abuse; receipt of reports on incidence of abuse; outreach, conferences and referrals to other sources of assistance; and referral of complaints to law enforcement or public protective service agencies. The law further requires the Commissioner on Aging to submit a report to Congress on the extent of need for elder abuse prevention activities in 1986.

B. Departments of Justice and Health and Human Services' Involvement

Correspondence with the United States Department of Justice brought a summary of P.L. 98-473, signed October 12, 1984. This included the Justice Assistance Act of 1984, the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984 and the Victims of Crime Act of 1984. The Office of Justice Programs (OJP) has the responsibility of coordinating the activities of the newly created Bureau of Justice Assistance and the Victim Compensation Program. The new legislation authorizes programs to help state and local governments improve the administration of their criminal and juvenile justice systems, provide assistance and compensation to victims of crime, conduct research in criminal and juvenile justice and compile and disseminate criminal and juvenile justice statistics.

In 1982, the President's Task Force on Victims of Crime held hearings on the special needs of elderly victims. To lessen the trauma and improve the treatment of the elderly and all victims, the Office for Victims of Crime is working to develop and deliver training to police officers, sheriffs, judges, prosecutors and defense attorney, etc. on victim issues and needs. Sensitivity to the particular needs of elderly crime victims will be stressed.

This office is reviewing draft model legislation which would require victim impact statements at sentencing and require restitution in all cases, except where specific exceptions are made.

The Attorney General's Task Force on Family Violence conducted six regional hearings during which hundreds of professionals with expertise in the area testified, as did victims of elder abuse. The Task Force also reviewed relevant research material and visited a number of treatment facilities programs.

The final report was submitted to the Attorney General September 1984. A number of recommendations specifically address violence directed toward elderly family members. Additionally, the report includes recommendations urging further research to determine the most effective reporting methods and intervention techniques in cases of elder abuse. These recommendations are significant because the Task Force found a definite lack of data regarding occurrences of elder abuse, uncertainty and inconsistency in reporting requirements, and an apparent lack of intervention or treatment programs. The office will be working with other Federal, state and local agencies, professional organizations, and civic groups to assist in implementing the recommendations of the Task Force report. However, specific programs or research effort have not yet been developed.

As this briefing paper went to press, a response to a Subcommittee request to Honorable Margaret Heckler for a statement of the Department of Health and Human Services' action in this area had not been received.

C. Federal Funding

What has been the Federal government's response in allocating resources to meet this burgeoning problem of elder abuse? Since 1981, the primary source of Federal funding for protective services, the Social Services Block Grant, has been cut in real terms nearly one fifth, by direct costs and inflation. Faced with the clear need to do more, the Federal government is doing considerably less.

SECTION V

POLICY RECOMMENDATIONS

It is apparent that a coordinated attack on several fronts is necessary if there is to be any hope of limiting the number of elder abuse cases in the future. Obviously the problem is so widespread and runs so deep it can never fully be eliminated. However, because little is being done at the present time at either the state or the Federal level, even some modest reforms can have significant and far-reaching results.

The basic recommendation of this report essentially borrows a leaf from the Aging Committee's report of 1981: that the Federal government should assist the states in their efforts to deal with the pervasive problem of elder abuse. This need not involve tremendous new expenditure of Federal funds. For example, the Child Abuse program, after which Federal elder abuse proposals have been patterned, had a very salutary effect in encouraging the states to deal with child abuse as an expenditure in 1974, when the program first started, of $4.5 million annually, growing to $22.9 million in 1980. Moreover, it is obvious that the Federal government can do much at no cost by removing technical impediments in the law or by reversing incentives in Federal programs such as Social Security, Supplemental Security Income, Medicare, Medicaid, and Title XX, which presently serve to break down the extended family and create the climate which fosters abuse of the elderly.

Experts and state officials almost universally agree that the provision of more social services to families who are caring for an older person is essential. They contend that more home health services, personal services such as bathing and dressing the older persons, homemaker services, home delivered meals, adult day care, and respite care (short-term total care that provides a rest for caregivers) would help lessen the family stress that can result from constantly responding to the needs of a dependent family member. To accomplish this, therefore:

- The Congress may wish to consider legislation providing meaningful tax credit for families who care for older relatives for those costs which are not covered by another Federal program. It may wish to consider tax incentives to encourage families to care for a dependent older family member in their own home, or a tax credit for those who adapt or expand their homes to accommodate a dependent person.

- The Congress may wish to amend Title III of the Older Americans Act to require the states to give priority to families with dependent elderly members when allotting access, legal and in-home services.

- The Congress may wish to consider authorizing respite care as reimbursable under the Medicare program. Payment could be authorized for a two-week stay in a nursing home each year for senior citizens who are certified as in need of medical and nursing care, supportive services and 24-hour supervision. This would provide relief for family members who are making the effort to care for their loved ones at home.

- The Congress may wish to consider enacting legislation providing funds and directing every state to establish specific programs to protect its elderly. At present, 37 States and the District of Columbia have adult protective service laws.

- The Congress may also wish to amend Title XX to include emergency shelter for elders as a protective service. As the law is now written, protective services can include emergency shelter for children, but neither the law nor the regulations provide for emergency shelter for elders.

- The Congress may wish to amend the Medicare and Medicaid provisions to eliminate the limitations placed on benefits and services to elderly persons who live at home and are cared for by family members. In addition, Congress may wish to amend Medicare so that senior citizens could elect to be covered for expenses of day care in lieu of some of their home health care benefits currently authorized by law.

- The Legal Service Corporation Act could be amended to permit legal assistance to be provided or elders who have been physically abused in private homes rather than licensed institutions. At the present time, legal services provided by the corporation are restricted to civil matters.

- At the very least, Congress should not cut back on the already depleted Federal support to the Social Services Block Grant which, due to inflation and direct cuts, has dropped by almost 20 percent since 1980.

In the area of state law, the most important change, in the view of many experts, would be provisions for mandatory reporting of suspected abuse, prompt investigation by a designated State agency, and immunity from prosecution for those who report. All 50 states have laws of this type relating to child abuse, but only 37 States and the District of Columbia have mandatory reporting laws for suspected instances of adult abuse. Therefore:

- The states may wish to consider enacting mandatory reporting legislation and otherwise upgrading their statutes to provide specific protections to the elderly equal to those provided to children.

Other needed changes in State laws, according to those knowledgeable about the area, include more specific tailoring of civil remedies, such as restraining orders and vacate orders, and social services such as emergency shelter, to situations involving sometimes frail, nonambulatory elderly persons living with relatives. Better coordination of state-level programs, including social and protective services, legal aid programs, and senior citizen-oriented programs, is also viewed as important in detecting and intervening in elder abuse cases.

Many advocate family counseling before the decision is made to take an elderly relative into the home. Some families may not realize the extent of the demands that will be placed on them when they assume the care of a dependent, sometimes impaired, older person. A case in point is Alzheimer's disease, the debilitating illness that afflicts 1-4 million Americans and lasts on the average 2 to 10 years. Caretakers may need to be educated as to the physical, emotional and medical needs of older people and what community services might assist them. It may also be necessary to teach all family members how to interact and solve disputes in nonviolent ways. Hence:

- Families who are considering assuming the responsibility of caring for a dependent older family member may wish to consult with their local area agency on aging to determine what services may be available to assist them in this effort, and thus, reduce many of the stresses associated with caring for an older person unassisted.

SECTION VI

CONCLUSION

As this briefing paper reveals, elder abuse is a shocking national problem of ever increasing proportions, yet one that has only recently come to the attention of the American public and has been virtually ignored by the Federal government. Truly, the abuse of older Americans is a national disgrace.

It is sad enough that each year around 4 percent or over 1.1 million elderly Americans may be the victims of abuse. It is sadder still that dispite State efforts to strengthen legislation to protect their elderly, only an average of $2.98 per elderly person is spent for elderly protective services. The federal government, faced with the clear need to do more, has not only refused to enact needed reforms, also has cut the primary funding source for protective services by nearly a fifth since 1981.

Elder abuse will not simply go away. Swift and determined action must be taken to deal with this national disgrace.

APPENDIX I

Questionnaire to the States

Please answer each of the following questions from information on file in your records and return the questionnaire along with additional information and case histories by April 1, 1985. Our address is:

Subcommittee on Health and Long-Term Care
Room 715 House Annex I
300 New Jersey Avenue, S. E.
Washington, D. C. 20515

Questions

1. Does your Department have an office which is responsible for providing adult protective services and assisting abused adults? Yes_____ No_____ If yes, what is the name and address of that office?___
_____
_____
_____

2. What was the amount of the budget for all protective services in your state for fiscal year 1984?_____What was it for fiscal year 1983?_____

3. Approximately what was the budget for adult protective services for fiscal year 1984?_____What was it for fiscal year 1983?_____
_____

4. Can you estimate what portion of your budget for adult protective services went toward providing protective services for the elderly in your state in fiscal year 1984?_____. In 1983?_____

5. Approximately what was the budget for child protective services provided by the Department in fiscal year 1984?_____
In 1983?_____

6. What is the number of adult protective service employees (in full-time equivalents) hired by the Department?_____How many are clerical?_____Paraprofessional?_____Professional?_____
_____

7. Is there any legislation currently pending consideration in your State which would impact on the provision of adult protective servies?
Yes_____No_____If yes, could you please send us a copy of the legislation?

8. How many cases of adult abuse came to the Department's attention in 1984?
_____1983?_____

9. What percentage of the elder abuse cases that came to your attention were:

	1984	1983
substantiated		
unsubstantiated		
Inconclusive evidence?		

10. What percentage of those cases involved persons over the age of 65? 1984?_____1983_____

11. How many cases of child abuse came to the Department's attention in 1984?_____1983?_____

12. Experts have indicated that many elderly are abused by their children, relatives, or caretakers in obvious as well as in subtle ways. The following section of this questionnaire is to ask if you have ever received complaints of any of the following practices:

    A. Physical Abuse - This includes deliberate acts leading to injury of the older person, such as beating, withholding medication, food and personal care necessary for their well-being. This also includes neglect. Yes_____No _____

    B. Psychological Abuse - This includes verbal assaults and threats, provoking fear and isolation. This type abuse usually precedes physical abuse. It may involve the threat of unnecessary nursing home placement or various other mistreatments. Yes_____No_____

    C. Material or Financial Abuse - Includes the theft of money or personal property. The appointment of a conservator who does not handle an older person's estate in their best interests. Yes_____No_____

    D. Violation of Rights - This includes being forced out of one's dwelling or being forced into another setting against the older person's will. Yes_____No_____

    E. Other - Explain_____
    _____
    _____
    _____
    _____

13. Is it your opinion that a significant number of elder abuse cases go unreported? Yes_____No_____If yes, what number of cases in your State were unreported in 1984?_____1983?_____

14. Would you say the incidence of elder abuse is increasing? Yes_____ No_____

15. What percentage of elder abuse is perpetrated by caretakers who are unrelated to the abused? _____%

    In cases where caretakers unrelated to the victim commit such abuse, what percent of them would you guess are perpetrated by each of the following:

    Unrelated conservator/guardian _____%
    Live-in caretaker _____%
    Other (Specify) _____%

3

16. Does your State have a law requiring mandatory reporting of elder abuse? Yes_____ No_____ If yes, may we have a copy? Also, could you characterize how effective this law has been? _____

17. Will you please provide the Committee with typical case histories of elder abuse which have come to your Department's attention? Please feel free to delete names of individuals or protective service employees if you so desire.

18. Has your State produced any pamphlets or literature addressed to senior citizens providing guidance with respect to elder abuse? Yes_____ No_____ If yes, may we have a copy?

19. Would you be willing to testify before the House Select Committee on Aging if hearings are scheduled on the issue of elder abuse? Yes_____ No_____

20. Is there someone you might suggest we contact for further information on this issue?_____

21. Would you favor Federal legislation to establish model mandatory reporting requirements for elder abuse to be adopted by the States? Yes_____ No_____ If yes, who should be required to report?_____

APPENDIX B

Directory of Offices Responsible for Adult Protective Services

ALABAMA
Department of Pensions
and Security
Bureau of Adult Services
64 North Union Street
Montgomery, AL 36130

ALASKA
Division of Family and
Youth Services
Pouch H-05
Juneau, AK 99811

ARIZONA
DES Aging and Adult Administration
1400 West Washington
Phoenix, AZ 85007

ARKANSAS
Adult Protective Services
Donaghey Building, Rm. 1428
Little Rock, AR 72201

CALIFORNIA
Department of Social Services
Adult Protective Services
744 P Street
Sacramento, CA 95814

COLORADO
State Dept. of Social Services
Division of Aging and Adult Services
1575 Sherman, Room 883
Denver, CO 80203

CONNECTICUT
Department on Aging
Department of Human Resources
175 Main Street
Hartford, CT 06106

DELEWARE
Division on Aging
1901 North DuPont Highway
New Castle, DE 19720

DISTRICT OF COLUMBIA
Adult Protective Services
1st and I Streets, S.W., Room 130
Washington, D.C. 20024

FLORIDA
Aging and Adult Services
1317 Winewood Blvd., Building 2
Tallahassee, FL 32301

GEORGIA
Georgia Department of Human
Resources
878 Peachtree Street, N.E.
Atlanta, GA 30309

HAWAII
Department of Social Services
and Housing
P.O. Box 339
Honolulu, HI 96809

IDAHO
Division of Welfare
Statehouse
Boise, ID 83720

ILLINOIS
Elder Abuse Demonstration Project
Department on Aging
421 East Capitol Avenue
Springfield, IL 62701

INDIANA
Commission on Aging and Aged
Graphic Arts Building
215 North Senate Avenue
Indianapolis, IN 46202

IOWA
Bureau of Adult, Children, and
Family Services
Department of Human Services
Hoover Building, 5th Floor
Des Moines, IA 50319

KANSAS
Adult Services Section
State Dept. of Social Services
Biddle Building, 1st Floor
2700 West 6th Street
Topeka, KS 66606

KENTUCKY
Commonwealth of Kentucky
Cabinet for Human Resources
Department of Social Services
Franfurt, KY 40621

LOUISIANA
Division of Children, Youth, and Family Services
P.O. Box 3318
Baton Rouge, LA 70821

MAINE
Maine Department of Human Services
Bureau of Social Services
Division of Adult Services
221 State Street
State House, Station 11
Augusta, ME 04333

MARYLAND
State Social Services Administration
Adult Protective Services
11 South Street
Baltimore, MD 21213

MASSACHUSETTS
Executive Office of Elder Affairs
38 Chauncey Street
Boston, MA 02111

MICHIGAN
Department of Social Services
Bureau of Adult Services
Adult Protective Services Unit
P.O. Box 30037
Lansing, MI 48909

MINNESOTA
Department of Human Services
Adult Protection
Centennial Office Building
St. Paul, MN 55155

MISSISSIPPI
Department of Public Welfare
Social Services Department
P.O. Box 352
Jackson, MS 39205

MISSOURI
Missouri Division on Aging
P.O. Box 1337
Jefferson City, MO 65102

MONTANA
Department of Social and Rehabilitative Services
Community Services Division
P.O. Box 4210
Helena, MT 59604

NEBRASKA
Division of Social Services
Adult Service Unit
Department of Public Welfare
Lincoln, NE 68509

NEVADA
Nevada State Welfare Division
251 Jeanell Drive
Carson City, NV 89710

NEW HAMPSHIRE
Office of Adult and Elderly Services
Division on Human Services
Hazen Drive
Concord, NH 03301

NEW JERSEY
Department of Human Services
Division of Youth and Family Services
1 South Montgomery Street
Trenton, NJ 08625

NEW MEXICO
Field Services Bureau
Social Services Division
Human Services Department
P.O. Box 2438
Santa Fe, NM 87503

NEW YORK
Department of Social Services
40 North Pearl Street
Albany, NY 12243

NORTH CAROLINA
Department of Human Resources
Division of Social Services
325 North Salisbury Street
Raleigh, NC 27611

NORTH DAKOTA
State Office on Aging
State Capitol Building
Bismarck, ND 58505

OHIO
Bureau of Adult Services
Ohio Department of Public Welfare
Division of Services to Adults and Families
30 East Broad Street
Columbus, OH 43215

OKLAHOMA
Dept. of Human Services, Aging
Division, Support Services Unit
312 N.E. 28th Street
Oklahoma City, OK 73105

OREGON
Senior Services Division
Program Assistance Section
313 Public Service Building
Salem, OR 97310

PENNSYLVANIA
Department of Public Welfare
P.O. Box 2675
Harrisburg, PA 17105

RHODE ISLAND
Department of Elderly Affairs
79 Washington Street
Providence, RI 02903

SOUTH CAROLINA
Department of Social Services
Adult Protective Services Division
P.O. Box 1520
Columbus, SC 29202

SOUTH DAKOTA
Adult Services and Aging
Department of Social Services
700 North Illinois Street
Pierre, SD 57501

TENNESSEE
Department of Human Services
111 7th Avenue North
Nashville, TN 37203

TEXAS
Department of Human Resources
701 West 51st Street
P.O. Box 2960
Austin, TX 78769

UTAH
Division of Aging and Adult Services
150 West North Temple, Room 326
Salt Lake City, UT 84103

VERMONT
Department of Health
60 Main Street
Burlington, VT 05401

VIRGINIA
Department of Social Services
8007 Discovery Drive
Richmond, VA 23229

WASHINGTON
Department of Social and
Health Services
Bureau on Aging
OB-43G
Olympia, WA 98504

WEST VIRGINIA
Adult Services Program
Division of Social Services
1900 Washington Street, East
Charleston, WV 25305

WISCONSIN
Department of Health and
Social Services
Division of Community Services
1 West Wilson Street
P.O. Box 7851
Madison, WI 53707

WYOMING
Divisin of Public Assistance
and Social Services
Hathaway Building
Cheyenne, WY 82002

APPENDIX 2

THE MOUNT SINAI MEDICAL CENTER
ONE GUSTAVE L. LEVY PLACE • NEW YORK, N.Y. 10029

Mount Sinai School of Medicine • The Mount Sinai Hospital

Robert N. Butler, M.D.
Brookdale Professor of Geriatrics and Adult Development
Chairman, Gerald and May Ellen Ritter
Department of Geriatrics and Adult Development

MAY 13

May 6, 1988

Act letter
5/7

Kathleen T. Gardner
c/o The Honorable Claude Pepper
Select Committee on Aging
U.S. House of Representatives
Washington, D.C.

Dear Kathy:

I am deeply grateful to you for your thoughtfulness to ask me to participate in your hearings on Elder Abuse on May 10. I am deeply regretful that I am unable to attend.

As you know, I first described Ageism as a systematic prejudice against old people in 1968 and in my book Why Survive, I included a chapter (chapter 10) Victimization of the Elderly. I also described what I called "the Battered Old Persons Syndrome" (see page 158 of Why Survive: Being Old in America). I remember to this day the reaction of a major metropolitan newspaper which expressed their disbelief in the possibility of the abuse of older people and insisted that document its extent.

Your hearings are of great importance and I congratulate Congressman Pepper for conducting them.

I am afraid that there will be increasing abuse to older persons precipitated by the further shredding of the safety net through cutbacks in Medicare and Medicaid and the fact that cost containment is now in overdrive through professional review organizations (PROs) and DRGs. This will also lead to deterioration of care through either passive neglect or direct abuse due to family tension.

You may certainly refer to these remarks in the course of the Friday hearings and/or incorporate them in the record.

With good wishes.

Sincerely yours,

Robert N. Butler, M.D.

RNB/ph.

Enc:

Chapter 10

VICTIMIZATION OF THE ELDERLY

CRIMES OF VIOLENCE

Old people are victims of violent crime more than any other age group.* Indeed, people over 50—not only the old—are more vulnerable to violent crimes (particularly robbery). In Washington, D.C., in 1970, for instance, 25 percent of the city's population but some 35 percent of its crime victims were over 50.

Aside from the obvious physical dangers and property losses associated with crime, the elderly may become so fearful and cautious that they virtually become prisoners in their own homes. Social and personal isolation is difficult enough for old people, imposed as it often is by external forces like widowhood, the death of friends, mandatory retirement, poverty, physical and mental impairments and transportation difficulties. But added to these are the fear and the reality of crime, which locks many of them in their homes by day as well as by night. "Many elderly couples or single persons have told us they live almost entirely within their own walls, overwhelmed by illness, despair or fear of crime."[1] They are afraid to answer a knock on their door. Some keep lights burning all night or leave their TV's and radios running twenty-four hours a day. Many feel panic at any unknown sound and make a practice of sleeping lightly so as to be on guard at all times.

Yet such careful precautions can be futile. A significant part of violent crime against the old occurs within their own homes:

> In September, 1970, Charles and Flora Kurz, Sr., both 84, were robbed and beaten in the bedroom of their home. It took almost two days for Mrs. Kurz to climb down to the porch seeking help. Mr. Kurz died in the hospital two weeks later. His skull had been fractured.

* Older people themselves commit very little crime. Violent crime declines with age. Embezzlement rises on the job during the middle years until retirement. Most of the crime committed by the old is petty thievery to supplement inadequate pension or welfare checks.

She recovered. They had just completed arrangements to move because their home had been broken into several times.*

Sexual violence against older women is not uncommon:

The morning newspaper remained outside Mrs. Jones's apartment all day. The manager investigated. The 82-year-old woman had been sexually molested. A pillow case was over her head, her underclothing was stuffed in her mouth. She had died of suffocation. Her deafness had contributed to her vulnerability. Her apartment showed evidence of having been searched but not ransacked.

Eccentric or unusual behavior can become known in a neighborhood or community and lead to exploitation. Distrust, of recent development or lifelong duration, may prove dangerous.

An elderly woman in Philadelphia hid $100,000 in life savings in her basement in two canvas bags stacked near the heater. She did not trust banks. When she aired her beliefs to neighbors her money was quickly stolen.

Vandalism is common in low-income areas, and older people in their homes may be subjected to terrorism. Stones are thrown through windows. Clothes are stolen off clotheslines. Vegetable and flower gardens are pilfered or stamped on. Threatening or mysterious phone calls and letters upset them. When a crime occurs, especially a crime associated with violence or continued harassment, the psychological consequences may require a longer recovery period than actual physical injury. For some elderly people "things are never the same again." Their emotional resources are stretched to the breaking point.

Poor vision, hearing loss, slowed motor and mental response, decreased coordination and a host of other physical and mental impairments increase their vulnerability. They simply are no match for younger, stronger victimizers. Frequently the crime becomes more serious than was intended by the perpetrators:

Seventy-one-year-old Harriet Brown was pronounced dead of head injuries. She never regained consciousness from the moment she was struck down by two 15-year-old youths. The boys had been sitting idly on a cemetery wall on June 4, 1968, when they saw the elderly woman carrying a blue plastic purse. She stepped off a bus and walked toward her home. They crossed the street to follow her. One of them darted

* Charles Kurz had been a volunteer in our NIH studies of healthy older men.

> toward her and grabbed her purse. She struggled momentarily. With the snatching of the purse, the woman pitched forward to the ground, striking her head on the curb. She died two weeks later. Robbery, not first-degree murder, had been the intention.

Old people are systematically preyed upon. During the first days of the month, when Social Security, pension, public-assistance and other checks arrive, robberies, burglaries and assaults escalate. Nearly twenty thousand Social Security checks are stolen each year, usually by direct looting of mailboxes. This becomes a crisis to someone who has no other income for rent and food. It may mean the loss of income altogether or a long delay resulting from the need to prove the loss before another check is sent in replacement. Fortunately, the 1972 Social Security Amendments now make it possible for beneficiaries to have their checks directly deposited in a bank, credit union or building and loan association, with the Social Security number functioning as the identifying control. This has been the practice for some years now with federal civilian and military retirees' pension checks.

The setting for much crime against the elderly is in the inner city.* Those living in both private and public housing are affected, though persons living in more expensive apartments are, of course, often better protected by means of doormen, buzzer systems, TV monitors, special locks and grillwork. Apartment dwellers and roomers in private tenements and public housing often have little security. Senator Harrison Williams (D.-N.J.) reports: "We have been told—and with ample heart-breaking documentation—that elderly tenants in private and public housing in many of our big cities are the most vulnerable victims of theft, violence, rowdyism, and outright terrorism."[2]

There are approximately three thousand public-housing projects across the United States. Nearly 20 percent of the people who live in such lower-income housing are 65 years old or more. As one might expect, urban public housing is the most dangerous (for example, there has been a consistent increase in such crime in New York City†) whereas crime in country or rural public housing is not nearly so high.

Public housing has become so identified with crime that it is becoming more and more difficult to find locations for such housing. Fear of crime affected the reactions of Forest Hills, New York, residents to a new project.[4] The fact that 60 percent of the project inhabitants were to be white and

* Although recently crime in the suburbs has begun to rise dramatically.
† For instance in the Jacob Riis, Bernard Baruch and Lillian Wald houses.[3]

40 percent elderly was of little importance in the reactions of this white middle-class community. The constant theme running through the discussions was the association between public housing and crime.

Other public programs have led to equally difficult results. A social policy presumed to serve a useful purpose can lead to the creation or reinforcement of other problems, at great personal and social cost. The current policy to reduce the hospitalization of mental patients of all ages through rapid discharge and transfer to the "community" is illustrative. Former patients may have little experience in protecting themselves or may be incapacitated mentally to the extent that they are vulnerable victims. Their income usually limits them to undesirable, high-crime areas of cities. Increased crime is the natural result. In New York City, for example, discharged mental patients are housed in welfare hotels along with drug addicts and persons with criminal records. These welfare hotels, largely concentrated on Manhattan's Upper West Side, are centers of crime, serving as bases of operation for pimps and prostitutes, drug pushers and users. More than thirty hotels provide single-room occupancy at rents within the range allowed by New York City's Department of Social Services.[5]

Black, white, Spanish-speaking and other elderly are all subject to the dangers of crime. At times this leads them to band together to protect themselves and each other from the young. But more often crime encourages the spread of racial unrest and prejudice. This is clearly demonstrated in the case of elderly Jewish merchants with businesses in all-black neighborhoods. Black-white antagonisms are deeply rooted, with both blacks and Jews reacting to long histories of exploitation. Such merchants become prime targets for robbery as racial tensions have increased and their own aging has made them more susceptible.

Cultural factors can also be responsible for the presence of Jewish elderly in the inner city. In 1972 a three-man special commission of the Union of Orthodox Jewish Congregations of America expressed its concern about the elderly Jews who will not move out of their inner-city neighborhood because there are no orthodox synagogues elsewhere near enough for them to be able to walk to services. It is estimated that in the New York metropolitan area alone there are at least fifty thousand elderly Jews who feel unable to move for various reasons.

The elderly of all groups and races tend to become trapped in high-crime centers because of their low incomes or their reluctance to move to unfamiliar locations. The fear of change can be even greater than the fear of crime. But the most significant factor is probably the fact that many elderly simply cannot afford to move anywhere else.

Who commits crimes of violence against old people? Troubled, desperate people, those in need of money for drugs, robbers of various types, sociopaths and people with sex problems; but also caretakers, acquaintances, even relatives:

> In 1971 a seventy-four-year-old resident of a nursing home (having been there for five years) was taken by her caretakers, the operator and an assistant, to a bridge over a local river and thrown to her death. They stated that they killed her because she was so crippled by arthritis that she had become a burden to them.

Armed robbers, gangs and muggers are often youthful. Most violent crime is committed by persons between 15 and 24. The main victims are in fact blacks, although white victims generally receive more publicity.

Much crime is never reported by the elderly. There is too much fear of retaliation, particularly when crime occurs within a family (one family member against another) or among neighborhood residents. In addition, it is expensive to participate in the pursuit of justice—to get to and from the courthouse, to eat lunch out, to hire a lawyer. Many have no telephone on which to call police. When crimes *are* reported (by people of all ages) only 12 percent end in arrests, only 6 percent in convictions, and 1 percent in imprisonment—figures that give some idea of the extent to which crime is "successful."

If a person resists crime, the chances of injury and death are increased. In general, 10 percent of robbery victims are badly injured and 10 percent are killed, but reliable statistics categorized by age are not available. Indeed, the victims and their characteristics have not been nearly as well studied as the characteristics of the perpetrators of crime. This is true of the FBI's Uniform Crime Reports as well as local police records.

One of the few studies of elderly crime victims has been a 1970 demonstration study called Project Assist conducted in Washington, D.C., which developed a useful model for establishing a program of police-community relations to benefit old people.[6] This eight-month $24,000 project (funded through the Older Americans Act) examined the extent of victimization and the kinds of social and health problems which result, as well as the circumstances under which older people come to the attention of the police whether or not a crime has been committed.

The mean age of the elderly served by Project Assist was 70. Robbery was the number-one crime. Physical illness topped the list of non-crime-related problems which were brought to the attention of the police. About 20 percent of the sample had multiple social problems. Women were more

victimized than men; 63 percent of the clientele were women, 37 percent men. Blacks were more frequent victims than whites. Many of the sample were physically and/or mentally impaired in some serious way, adding to their vulnerability to crime and social problems. A substantial percentage of the sample were poor, and more were on Old Age Assistance (OAA) than in the city's population as a whole. Widowed and single people were also disproportionately represented in the sample. One-third had no phone. To be old and poor, widowed and female increases the chances for police contact. One can surmise that this is true not just for Washington, D.C., but for the nation at large.

Project Assist had the blessing of the Metropolitan Police Department and the cooperation of the Third Police District, which made available the names of older persons reporting crimes they had suffered, or who became known to the police because of social crises. The report of Project Assist pointed to "a large group of old people . . . a depressed under-class . . . who are particularly vulnerable to crime, easy victims of street robbery, unable to move out of high crime neighborhoods . . . and likely to have no other community resources to turn to other than the police if trouble occurs." Police, of course, are one of the community agencies that are immediately identifiable and are called upon to provide social service as well as protection. Because of this it was one of the aims of Project Assist to develop appropriate means of liaison and referral through and by the police. A social worker with training in community organization was especially useful in helping coordinate police contacts with community social-service agencies and resources. It became clear that programs and services must be designed categorically to respond rapidly and effectively to older people who have contact with the police either as a result of criminal activity or social problems. Follow-up by the social worker–director[7] and/or her case aide resulted in dramatic, even life-saving assistance, along with practical solutions to many everyday problems. In the eight-month study some 220 persons received direct help, such as emergency money, replacement of food stamps, medical assistance and sheltered care. Project Assist found help for many who were simply unaware of available services—although it was abundantly clear that both private and public agencies were very limited in their capacities to meet fully the community-wide needs of older people.

The report included extensive computerized statistical analysis on a city-wide basis (beyond the locale of the project) to probe the scope and characteristics of the burden of crime carried by the elderly and the degree to which the police are the first line of defense turned to by older people and their neighbors in the inner city. In addition, the report provided numerous

case descriptions and an analysis of the role conflicts of police personnel when confronted with social problems as well as crime. It also tried to offer guidance to social workers in constructing effective liaison with police officers.

One of the most serious consequences of crime is the unwillingness of service groups* to make home visits in inner cities. Public-health and visiting nurses, homemakers and some social workers are notable exceptions. Physicians have become increasingly reluctant to practice in high-crime areas.

On the other hand, Dr. Charles Goodrich of New York's Mount Sinai School of Medicine observed, after six years of experience working in East Harlem, "Security is a factor, but it's a minor one and is more of a problem for ghetto residents themselves than for health personnel. Among the more than 100 medical people working in East Harlem there haven't been any problems."[8] And Myrna Lewis, a psychiatric social worker functioning in Washington, D.C.'s, inner city has noted:

> In our own experience (with a staff of 12 community workers) of over three years work in one of the highest crime areas in Washington, D.C., we have had only one close call, and during the episode no one was injured. It would appear that the terrified attitudes of most professionals toward community work may be covering a more profound reluctance to care for the poor, the elderly, the minorities and others living in the inner city.[9]

Undoubtedly fear has at times outdistanced reality, but fear becomes its own pervasive reality with untoward effects.

What should be done about crime in America, particularly as it affects old people? There are those who take the hard line—more crime fighting and more law and order. According to a 1973 Gallup Poll,* the public considers crime to be the worst urban problem, and public support for the death penalty has risen to its highest point in twenty years.[10] The personal fear of criminal assault, both realistic and exaggerated, has led to the massive revenue-sharing program of the Department of Justice through which millions of dollars have passed. But the Law Enforcement Assistance Administration, authorized under the Safe Street Act, remains caught up in politics, bureaucracy and gadgetry. The war on crime, like the war on poverty, has hardly been a notable success.

Others insist that crime be considered a symptom of poverty and racial inequality, that to eliminate it successfully requires a major commitment

* This includes the TV repairman, who, by not coming, further compounds isolation, and the grocery store that will no longer deliver, which may necessitate the institutionalization of the housebound and chairfast.

to overall social progress. Efforts to deepen our cultural sensibility toward old people and to inaugurate fundamental reforms to get to the root of poverty for all age groups would mean increasing standard income-maintenance programs and adequate social services.

Nonetheless, specific programs to reduce crime against the elderly and to assist them after a crime has been committed are in order as long as crime remains a major threat to their well-being. The following protective measures are illustrative of what could be done at this time:

1. Emergency shelter for elderly crime victims when immediate care is needed and while decision making takes place as to what to do next.
2. Twenty-four-hour social services, including protective services and public guardianships (described in Chapter 5).
3. Compensation of elderly victims for medical expenses resulting from a crime and for costs associated with court cases, such as travel and food.
4. Protection against reprisals through increased police observation and notification of neighbors, friends, and relations who can take protective measures. Perpetrators are less likely to carry out criminal actions in a social network which increases their visibility and chance of being apprehended.
5. Expansion of arrangements for direct banking of pension and Social Security checks and the familiarizing of older people with these procedures.
6. Self-defense and survival education.
7. Provision for security in the home through buzzer systems to announce visitors, sturdy locks, adequate illumination and locked mailboxes. A small dog, where this is allowed, is often an excellent alarm system. Guards, doormen or TV monitors, usually provided in higher-income apartments, should be available in public-housing developments. Specific danger spots in residences for older people are similar to dangerous areas of all age groups—basement laundry rooms, where there is often noise because machines are running, elevators, dark halls and back doors. All of these require protective measures.
8. Improved street lighting.
9. Community escort service. In public housing in urban areas, for example, elderly residents are frightened of the prospect of living near families with adolescents because they are understandably afraid of young people. In some cities youth patrols have been organized to escort older people to stores and to provide other protective services for them. Practiced more widely, this could also help overcome their fear of younger people.
10. Self-help. Older people can help protect themselves through voluntary action when adequate security is not available. The Cuyahoga (Ohio) Metropolitan Housing Authority began a program in twenty high-rise buildings housing more than three thousand elderly and disabled persons. Five hundred older residents, mostly women, were trained as volunteer guides. They operated on a two-hour-per-day basis, monitoring buildings, reporting the presence of strangers, checking the functioning of security devices such as buzzers, locks and alarms, and sending for ambulances or police as needed.

Contacts between the police and the elderly could be greatly improved. The police are subject to much scrutiny and criticism, which can be extremely useful and sometimes necessary to reduce corruption and excessive "politicization" under the banner of "law and order." But the police are also unfairly abused. Theirs is a very high-risk occupation. The excellent motion-picture documentary *Law and Order* by Frederick Wiseman records the way in which police work itself will blunt human sensibility if there are not forces such as continuing education to counter it. In some cities, too, the police lack adequate insurance protection against liability. If they are sued for acts performed on duty—such as false arrest, or assault and battery—they must pay the damages themselves if they lose the case. Understandably, then, the police are reluctant to undertake certain procedures. In Washington, for instance, the police are uneasy about potential lawsuits if they take possible commitment cases to the local mental hospital, St. Elizabeths.

The average policeman is underpaid, undereducated and unprepared to deal with the range of social problems he encounters and about which he is rarely taught. Physicians, social workers, public officials and others have not joined forces with the police in effecting better techniques to protect various age groups, from children to old people, and to become more cognizant of the variety of aspects of human behavior they may encounter, including mental disorders and their symptoms.

Some specific recommendations on police functioning are as follows:

1. Greater emphasis on training of police about the sociology of crime, the roots of criminal activity and the recognition of the vulnerable (for example, the mentally ill and aged).
2. Liaison between police and social services (e.g., the model of Project Assist).
3. Collective liability insurance for the police (in addition to the more obvious need for better pay and fringe benefits).
4. Police training of youth "courtesy" patrols and use of police reserves in high-crime areas to escort older people to shops, services and recreation.
5. Provision of police or police-trained escort services for physicians, social workers and other health personnel as well as service and repair personnel (TV repairmen, grocery delivery men) in high-crime areas.
6. Special policing where older people are concentrated, in certain private and public housing, and at public transportation sites such as subway stations and bus stops.
7. Easy-to-remember emergency police telephone numbers.
8. Police-led education for community resident elderly on techniques of self-protection, residential security and street safety. In some locations the police are willing to make on-site inspection of homes for security checks.

A speedier and less complicated judicial system and the provision of legal counsel for those who cannot afford their own would be of obvious benefit to the elderly.

FRAUD

Old people are victimized in many ways other than through violent crime. They are pursued by fortune hunters anxious to separate them from their pension checks. Door-to-door salesmen offer persuasive "bargains" bolstered by "free" gifts and prizes. Those with visual handicaps are cheated when change is made in stores. At a time of loss and grief, first the funeral directors and then all kinds of salesmen—dealing with real estate, investments and the like—may exploit them. Cosmetic firms make them feel they are ugly and extract their money in exchange for "youth-restoring" beauty aids. Quack doctors, appliances and drugs give them false hope. Pharmaceutical firms realize high profits from unnecessary sales to the elderly. Many of the starker varieties of victimization are exploitative rather than illegal; and all of them occur in a general cultural framework that denigrates older people.

According to the 1966 report of the Senate Subcommittee on Frauds and Misrepresentation Affecting the Elderly, the American people "are now paying the greatest price they ever paid for worthless nostrums, ineffectual and potentially dangerous devices, treatments given by unqualified practitioners, food fads and unneeded diet supplements, and other alluring products or services that make misleading promises to cure or to end pain." The report continues, "It is shameful that the elderly of the United States are now the major victims of the hugely organized, high-pressure techniques of the modern medicine man. But this is clearly the case, and it was verified as woeful fact by witnesses who addressed the subcommittee."[11]

Not all older people are victims of fraud, of course. But an important minority are highly susceptible and the magnitude of this minority is not yet known. Collectively, the elderly constitute a significant source of income, given their $60 billion of annual aggregate income, and with their own frailties and vulnerabilities, this makes them tempting prey.[12]

Medical frauds and misrepresentations are perhaps the single most widespread area of fraud. The loss to the public during fiscal year 1973 has been estimated to be $10 billion and the majority of losers were the elderly. Cancer cures, arthritis remedies and "medicines" of all kinds are offered. As just one example, for every dollar spent on research on arthritis as much as $25 is spent on fraudulent nostrums. This is an annual waste

of $400 million. If the arthritis victim has a temporary remission by coincidence, it is a special boon to the quack. Very often the chief ingredient of these expensive remedies is the old inexpensive standby, aspirin.

Inoperative or ineffective medical devices such as respirators, heart pacemakers and catheters are sold and used. Some of the appliances are hazardous to others as well as the patient. For example, improperly made oxygen cylinders may leak and cause fires.

Hearing impairments affect as many as five million elderly Americans and thus hearing aids of questionable quality have become a high-profit industry. Many elderly bypass the audiologists, who are trained specialists in programs accredited by the American Speech and Hearing Association, and otolaryngologists or otologists, who are physicians specifically trained to treat ear disorders. Instead they depend upon high-pressure door-to-door salesmen whose "tests" are likely to lead to sales. Such salesmen offer low prices, installment payments and easy accessibility to hearing aids. The Nader Retired Professional Action Group conducted a study that compared the tests of hearing-aid dealers and clinical audiologists.[13] Tests by the former are not performed in soundproof rooms, essential for valid examinations. In addition, dealers and salesmen test air conduction but not nerve conduction.* The hearing aids themselves are often therapeutically deficient and do not live up to their promise, either in terms of cost or performance. Senator Charles H. Percy (R.-Ill.), himself hard of hearing, submitted legislation calling for drastic reforms in the hearing-aid industry in 1974.

Closely related to medical frauds are anti-aging schemes. Rich and poor alike are susceptible to their promises.[14] Men worry about their potency, women about their attractiveness. There are people ready to assist—for a price! There was Professor Paul Niehans—who died at eighty-eight—purveyor of cellular therapy with "Live Lamb Embryo." He selected his wealthy patients carefully, gave them rest, good care and good food, and barred liquor and tobacco. Many felt much better after their "cures" in spite of the fact that scientific studies have found little value in cellular therapy as such. Dr. Ivan Popov, the founder of Renaissance Center in Nassau, Bahamas, specializes in "revitalization" treatments.[15] Dr. Ana Aslan's Gerovital H_3—based on simple procaine, the painkiller used by dentists—has attracted world-wide attention and many visitors to Rumania. The rich can afford to seek out the "youth doctors," but the everyday citizen depends on the less-costly do-it-yourself anti-aging fads. Special

* Hearing impairments are of three kinds: due to defective conduction by air or nerve or both.

jellies, creams, lotions, powders, mechanical devices, masks, clothing, exercises and the like purport to ward off the great offender, aging, and improve attractiveness and potency.

Lonely old people may be easy marks for the fast-talking or friendly-sounding representatives of the "loneliness industry," which sells everything from computerized dating services to "lifetime" dance lessons:

> As a psychiatrist I examined 69-year-old Miss Parker for her attorney to find if there was a psychiatric basis for an incapacity to make contracts that would hold up in court. She had been lonely, and in an effort to find social contacts she had made contracts totaling over $10,000 with a dancing studio, not only for dancing lessons—with instructors who flattered her—but for special trips to Puerto Rico and Acapulco (paying her teacher-escorts' expenses). She won medals in phony contests, was "tested" and "awarded" new contracts for progress from simple lessons to more complex dancing techniques. She finally belonged to the "300 Club" named for the number of lessons she had had. She had paid for 270 unused dancing lessons when illness caused her to become bedridden. She tried to terminate the contracts and sought a refund of her money. The studio refused. My medical opinion was that she was indeed susceptible to fraud. Psychologically it was a prima-facie case, but legally it was not. None of the legally accepted bases—for instance, organic brain disease—was present, and Miss P. was unable to recover her money.

Get-rich-quick schemes have special appeal for the elderly, given their generally marginal incomes. These schemes invariably earn money for the promoter and little or nothing for the investor, who has been beguiled by spectacular promises of big profits. A current example: franchise rights to vending machines are sold for territories that are poor, are unlikely to have good sales, or already belong to other franchised operators. The machines themselves may be falling apart. Another common get-rich-quick-at-home scheme: promoters charge a fee ($2 to $10 in advance) for mailing lists of companies that will supposedly buy a person's services—for example, addressing or stuffing envelopes. But these lists often turn out to be stale or the companies are not interested in services at all.

Franchises and distributorships of many kinds promise large potential profits. Franchising is the system by which a large national business organization contracts with an individual to represent it in a specified territory. "You are your own boss," they say. "You can be independent." One presumably benefits from the national company's advertising, volume buying and advance operations, and naturally one must be willing to invest

sizable capital. Franchising is big business, legitimate and profitable for many, but illegitimate and disastrous for others. Dubious franchise operations are now under investigation in some states.

"Work at home . . . no experience needed" is a great come-on that lures the elderly into financial ventures. Fly-by-night deals which take their money and vanish have become the Postal Service's number-one mail-fraud offender.[18]

Retirement-home and land sales are a high-pressure business. Inducements, such as gifts, free gasoline, and dinner parties where "shills" are hired to start the sales pitch, gather in potential customers. Deceptive sales practices are commonplace in the $6 billion (1973) business of land sales. Overpriced, underdeveloped and often worthless land is bought unseen by many people about to move or in retirement, who give in to the pressure of the fast-buck salesmen. Land is sold as "ready for building" when, in fact, there are no sewer mains or water supply. Money goes into the hands of developers describing golf courses and marinas that are never built. The developers try to conceal the true state of the properties they are hawking. Prospective buyers are not given full certified financial statements and property reports. Land has been sold where the only available water is a thousand feet straight down or when the land itself is under water.* Whether desert or swamp land, it is usually a far cry from the paradise in Florida, New Mexico or Mexico that had been promised.

Condominium buying, now popular, carries special risks for the elderly. It offers the tax advantages of ownership, with maintenance work and other amenities as part of the package. But the residence may be ready for occupancy long before the promised swimming pool and garden, and buyers are forced to accept it as it is or lose part or all of their deposit. Costs of maintenance and utilities go up, but older buyers have been encouraged to think they will remain fixed and have not calculated these costs into their budgets.

Insurance provides another possibility for misrepresentation and outright fraud. The elderly, quite reasonably, try to protect themselves through health insurance. But mail-order health insurance has been very misleading

* Even the most venerated older retired person cannot walk on water, but the Gulf-American Corporation sold "thousands of acres of water in the Big Cypress Swamp," according to John Hunter in "Selling Land in Florida" (*The New Republic*, 157:20, 1967). The GAC Corporation took over the Gulf-American Corporation in 1969. In 1974, the Federal Trade Commission (FTC) made a pioneering settlement with the GAC Corporation in a major land-sales case, granting buyers $17 million in refunds in cash and in land for unfair and deceptive practices in Florida and Arizona.

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to the public—and most lucrative to the companies. These policies are usually sold as supplements to Medicare or group coverage. There are innumerable exclusions (such as preexistent conditions, a foregone conclusion for the elderly), limitations and deductibles. The policies are hardly worth the premiums they cost. Though Senate hearings exposed these practices in 1964[13] there has been very little improvement in methods of sales. The U.S. Special Committee on Aging also investigated "pre-need burial insurance" in 1964 and found that victims were usually elderly persons who sought to make certain that they themselves, rather than their survivors, would absorb the costs of burial.

Attempts to get money out of the accounts of elderly people in banks, credit unions, and savings and loan associations are a unique category of fraud. These are all variations of the confidence game. Lonely old people are prey to the spiel of the con artist as well as the ordinary huckster and solicitor who comes to the door or operates by phone. One typical way the con man finds out about well-to-do elderly, often widows who have acquired money through the sale of their homes or other property, is through advertisements of the property in the newspaper. Another popular technique is the "bank examiner" swindle.[14] The crook calls a widow and tells her that shortages have been found in a number of accounts and that the bank wants her help—indeed is willing to pay a substantial bonus for her help—in uncovering the dishonest employee. She only need withdraw a large sum of money and wait at home for a further call. Then the "examiner" calls and tells her a "bank messenger" will pick up the money as "evidence" and give her a "receipt." She never sees her money again. There are numerous variations on this same theme:

> Mrs. Y. was a 65-year-old widow who had just retired from a government job and was living alone. Project Assist called to offer help after notification by the police of a purse robbery. Mrs. Y. felt she did not need assistance at the time; but several mornings later she called the case aide to report that she had been approached two days before by two men who identified themselves as police officers. They showed her photographs, and she identified the men who had taken her purse. Then they told her that to catch the men she would have to give them $5,000 (all of her savings) as a decoy. She agreed and went to her bank. The teller insisted on giving her a cashier's check. The men told her to meet them and they would arrange to help her cash the check. She became suspicious and called Project Assist, which in turn immediately called the police, giving the descriptions of the men. They were apprehended and the check not cashed.

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Why are the elderly so susceptible to fraud? It is not age *per se*. People do not automatically lose their intelligence and judgment as they grow older. We are all susceptible to the personality of others, the factor of charisma. The attractive door-to-door salesman or the medicine man may mesmerize unsuspecting people through sheer weight of personality. But a variety of factors can contribute toward making an older person especially vulnerable: current medical status, the presence of organic brain damage, loneliness, grief and depression, the fear of aging and death, pain and anxiety, educational level, personality, cultural characteristics and poverty.* Psychological reactions to physical changes are complex and varied. Judgment, the ability to reason, can be further affected by both cognitive and emotional changes. Cognitive judgment is impaired by organic brain damage through intellectual confusion, memory loss and disorientation. Emotional judgment is influenced by states of mood and systems of thinking, particularly depression, anger and loneliness. Paranoid systems of thinking, such as feelings of persecution or of grandiosity, may also seriously affect judgment.

Desperately lonely individuals, as the elderly often are, are easily persuaded by the ostensible warmth of friendly-sounding salespeople, by telephone as well as in person. Grief is another frequent companion of late life. Part of the process of recovery from grief includes the renewal of hope that the bereaved person may be able in some way to find a substitute for the loved one he has lost. This deep longing often makes for special vulnerability. When grief is complicated by hostility over being bereft, or when frank, overt depressions occur, the extent of vulnerability increases still further. Depression, for example, can involve guilt, and the tendency to self-punishment may manifest itself in spending one's money uselessly—a perfect setup for fraudulent financial schemes.

Simple factors which can influence susceptibility—for example, visual impairments—must not be underestimated. Older people often report being cheated in the process of receiving change in stores, because they cannot see properly. The print in contracts may be too small to read. Individuals with hearing problems can be too embarrassed to ask for written explanations and thus are subject to exploitation.

In the face of illness and intractable pain people may turn desperately to quack "cures" for cancer, arthritis, heart disease and other common diseases of old age. The possibility of death can induce a frantic search for help. Human credulity is usually defined as the readiness to believe something without sufficient evidence. Some people will persist in their beliefs even

* Viola Bernard has emphasized many of these in explaining why people of all ages, not just the elderly, become victims of medical quackery.[19]

in the face of the most overwhelming contrary evidence. One such belief is that of personal invulnerability. For people with such beliefs any person or magic promise that supports their sense of invulnerability is likely to have appeal. It is wrong to explain this phenomenon simply on the basis of "weakness" or "ignorance." In some instances this kind of unshakable credulity reflects necessary illusions they must maintain in order to survive as long as possible.

Old age can sometimes produce a hedonism that encourages risk taking in the hope of some pleasurable return. This is the philosophy that "you can't take it with you." Unfortunately the elderly are not in a position to recoup any financial losses should their ventures fail before they themselves do. Others feel pressured by the reality of death. Time is running out, and if they are going to make a move to a sunny state, buy a retirement home or make other crucial decisions, they must act promptly. This often means hasty decisions based on unsound evaluation.

Useful activity or purpose or meaning in life may be wanting in old age because the elderly are so often outside the mainstream of human activity. Their isolation tends to make them responsive to the charlatan who helps them feel less useless because he is paying attention to them.

Finally, one must take into account lifelong personality features. Some people who are vulnerable to fraud are no more or less susceptible in late life than when they were younger.

An informed elderly population is important in decreasing susceptibility to deception. The present average educational level of the population 65 and older is about eight years of public schooling, but we must consider also the impact of experience and self-learning. In our studies at the National Institute of Mental Health one of the subjects with a limited education said: "It came to my mind that I am getting older and my mind slower. Suppose someone would come to me and sell me on an idea on how to invest money. . . . But this idea would not be worth two cents. . . . So, I made a trust fund." This is the self-responsibility of which many older people are capable. But others fall prey to fraudulent practices because they are ill informed and inexperienced or naïve.

Much could be done to protect the elderly against fraud. Consumer educational campaigns are obviously of importance. Although the communication media—television, radio, newspapers and magazines—presently do little in the elderly public interest, they could certainly help to alert and educate the elderly to the tactics of fraud and the hazards of high-pressure selling. "Senior citizen" clubs, multipurpose senior centers and counseling centers offer opportunities for direct consumer education.

Better Business Bureaus and Chambers of Commerce should be develop-

ing ethical business practices with specific reference to the elderly. Older people need representation in organizations such as the Consumer Federation of America, the Consumer League, the Consumers Union, the American Automobile Association, and many others.

Professional persons—physicians, ministers, lawyers, nurses, social workers and others—have a responsibility in the education of the elderly. For example, the minister could play a much more important part in advising survivors about the practical aspects of funeral arrangements as well as caring for the spiritual and psychological aspects of grief. Doctors could do much more to warn older patients and their relatives about fake medical remedies and nostrums.*

The American Medical Association, the Food and Drug Administration and other organizations publish valuable pamphlets on quackery which ought to be displayed in doctors' waiting rooms and clinics. Moreover, pamphlets are available describing various diseases which commonly affect the elderly. If the doctor would take time to explain to the patient the nature of his illness, its likely course, and the valuelessness of quack procedures and drugs, older people could be saved considerable expense, disappointment and further risks to their health.

But in many instances the physician treating an elderly patient leaves no hope, throws up his hands, and refers only to the limitations of age, leaving an open doorway to quack cures and quick remedies. The following is an example of the importance of physicians' attitudes in maintaining effective and humane contact with patients:

> An 81-year-old woman with a severely painful arthritic destructive process of the head of the femur (the hip bone) sought help. Her physician of long standing told her there was nothing he could do and that he could not advise surgery. Her son, an engineer, pressed for a referral to an orthopedist, who was equally discouraging. Both the internist and the orthopedist told the son privately, "She's too old. Nothing can be done." The son became frantic and began looking for anyone or anything that could help his mother. Finally by luck he contacted a second orthopedist, who explained the pathological process to the son in greater detail. This orthopedist talked at length to both the patient and the son. He reviewed the use of analgesics, indicated his

* The Food and Drug Administration reported in October, 1972, upon the ignorance of the American public concerning health. Four out of ten would not be convinced that a cancer cure was worthless. Less than 50 percent felt cures judged to be useless should be banned by law. Two-thirds believe in the need for a daily bowel movement. One-third seek special methods of weight reduction which are medically questionable.

> willingness to be available at times of greatest discomfort, and described the likely course of events in realistic terms. Both the patient and her son felt confidence in this orthopedist, appreciated his openness and his activist attitude, and maintained their contact with him.

It is surprising how much a physician can accomplish by taking a realistic, active approach rather than the easier common alternatives—false optimism and false reassurance on the one hand, or therapeutic nihilism on the other.

Public education campaigns, professional counseling and improved patient care will never be enough, however, to stop fraudulent practices. The responsiveness to quacks and cures often stems from unconscious and powerful psychological needs or from brain damage. Too many unscrupulous operators are at work looking for opportunities. Specific legal protections are necessary.

The question of mental competence may be an issue. Every person of legal age is presumed to be mentally competent and to have the mental capacity to carry on his everyday affairs. The burden of proof of incompetence is upon others. To determine that a person is incompetent it must be shown that he not only has a mental disorder but that this mental disorder causes a defect in judgment which renders him incapable of managing his property and other affairs. The psychiatric diagnosis itself (describing the *kind* of mental disorder) is not as critical as determining the degree to which judgment is actually impaired (which requires evaluation of day-to-day functioning).

Like the concept of partial responsibility, with respect to criminal acts, that has developed under the law, we need a new concept of partial competency. Impairments of judgment are not uniform and complete; there are degrees. Unfortunately, at times, older people are deprived of *all* their opportunities to make decisions, even though they are still competent in certain areas. The results can be disastrous psychologically and even physically:

> Eighty-seven-year-old Martha Wilson wanted to die in her own home. Her wishes were not honored. She was pressured to enter a nursing facility "for her own good." Her spirit gone, her beloved possessions unavailable, she died quietly nine days after admission.

Community programs providing protective services for the aged may further our understanding of older people and their range of capacity in decision making. The goal must be to preserve for the older person his civil rights—including the right to make what others might regard as a

"mistake"—and yet provide protection when it is obvious that his judgment renders him helpless to exploitation and other dangers.

A variety of types of legal services are, of course, important as preventive measures against various forms of pressure, intimidation, and outright crimes like embezzlement. Protective services and public guardianships are illustrative.*

Moreover, the consumer-protection movement has accelerated in the 1960s and consumer-protection laws have been helpful. Class-action suits, a powerful legal weapon in which one person can sue both for himself and as representative of a larger class of similarly affected persons, have for a time made it economically feasible to go to court against small and big-time swindlers and merchandising organizations.† The "little man" was able to fight poorly made products and deceptive selling. *Caveat emptor* ("Let the buyer beware") became at least a trifle balanced. Liberalized class-action legislation would improve the situation even further, but the Supreme Court severely limited class-action suits in mid-1974 by its decision in *Eisen* v. *Carlisle & Jacquelin*, seriously impairing their effectiveness.

We urgently need a federal Consumer Protection Agency with strong advocacy powers, one along the lines envisioned by Ralph Nader and supported by the AFL-CIO and the Consumer Federation of America. This would institutionalize a consumer lobby within the executive branch and hopefully solve an old problem, the natural tendency of regulatory agencies to be dominated by the very industries they are supposed to regulate. But this attempt to establish a legal place for the consumer has been voted down since 1970.

The role and influence of the Office of Consumer Affairs should expand, and it should be a central repository for information on various products and services. The government regularly tests air conditioners, typewriters, floor polishers, automobiles and other equipment. As former HEW Secretary Wilbur J. Cohen has recommended, these data should be made available to the public under the Freedom of Information Act. Representative Benjamin S. Rosenthal (D.-N.Y.) and other consumer spokesmen have long argued for the release of such information. In 1969 there was a breakthrough of sorts when the Veterans Administration published its important data on hearing aids.[20]

* In fact, legal services are not readily available for older people. Private counsel is too expensive. Legal-aid societies generally have not given special attention to the needs of the elderly. Moreover, fly-by-night lawyers often find it easy to exploit older people.

† In the usual lawsuit individuals or corporations assert only their own legal claims.

The Flammable Fabrics Act of 1953 (amended in 1967, 1971 and 1973) needs to be strengthened again and enforced. Children and old people[21] are particular victims of serious and fatal burns from fabrics, although fire-retardant techniques are available to manufacturers.

There should be a model law regulating pre-market and post-market testing of hearing aids, physical therapeutic devices and medical appliances by the Food and Drug Administration or a potent consumer agency.

Strong legislation and enforcement by the appropriate municipal, state and federal agencies are mandatory if we are to control various kinds of quackery. The Federal Trade Commission, the Securities and Exchange Commission, the Food and Drug Administration, and the Postal Inspection Service are pertinent federal agencies. The Senate report referred to earlier has recommended the establishment of a Federal Anti-Quackery Bureau which would endeavor to coordinate various programs.

We also need more effective organization of paramedical as well as social services in the community. Even though a health manpower shortage exists —for example, grossly inadequate numbers of occupational therapists, physical therapists, and other health personnel—better utilization of existing personnel should be attempted. Experimenting with various nostrums would be reduced if older people had appropriate resources to which to turn for help when they need it. Psychological and physical rehabilitative efforts could at least compete with, if not "outsell," fake gadgets.

Improvement and enforcement of the Interstate Land Sales Full Disclosure Act of 1968* and expansion of the scope of the Office of Interstate Land Sales Registration of the Department of Housing and Urban Development would benefit elderly investors. Federal regulations should be supported by state buyer-protection laws and public-education campaigns.

There should be expansion and enforcement of the "truth-in-packaging" and "truth-in-lending" laws, passed by Congress in 1966 and 1968 respectively. "Truth-in-warranties" and "truth-in-insurance" laws need to be adopted and enforced immediately. Full descriptions of all articles and preparations sold, from medicines to real-estate plots, should be required in writing and made available to the buyer before sale.

Unit pricing, in easily read print, and special packaging in quantities suitable for people living alone would make shopping easier for the old. Older people themselves could and should organize to protect themselves by pressuring for education programs, new legislation and better marketing

* This act only covers developers who sell fifty or more unimproved lots across state lines.

and sales.* Control of advertising claims within the advertising agencies themselves and through legal enforcement is necessary.†

Perhaps most important, if older people have social roles of purpose and substance and a secure life, their need to believe in quick cures and extravagant promises will be minimized.

* "Social Security pamphlets explaining Medicare generally use small type and complicated language and are hard for the elderly to read and understand," complains William Hutton, executive director, National Council of Senior Citizens.

† The government has not done a distinguished job. The Federal Trade Commission, like most regulatory agencies, has "tired blood." After a ten-year enforcement battle, the FTC again gave the makers of Geritol another chance to stop "misrepresenting" the effects of their "medication." It was a 3-2 decision this time; Commissioner Philip Elman dissented. Elman wrote: "Respondents have advertised and continue to advertise the product Geritol as a generally effective remedy for tiredness when in fact it is not. This iron and vitamin preparation has become the largest selling product of its kind primarily because of the respondents' extensive use of national television advertising."[22] In August, 1971, Elman, then departing from the FTC, outlined a proposal for changes in the structure of regulatory agencies, most notably to reduce them from multimember commissions to single administrators. Finally in 1973 Federal Court Judge Constance Baker Motley denounced the defendants' "bad faith," "gross negligence" and "recklessness" and assessed $812,000 in fines. This is believed to be the largest civil judgment ever made for ignoring FTC orders. The case is under appeal, however.

PROTECTIVE SERVICES

"Protective services" is the term used for a group of services given to a person who is so mentally deteriorated or disturbed as to be unable to manage his affairs in his own best interest, and who has no relative or friend able or willing to act on his behalf. It is a much broader concept than public guardianship in that social work, legal, medical, psychiatric, nursing, homemaking and home-health-aide services may be provided. Federal legislation under the 1962 Public Welfare Amendments to the Social Security Act permits local welfare offices to set up protective-service programs with a 75 to 25 percent federal-state financial match; in November, 1970, such services were mandated for inclusion in all state plans. Very few states, however, have actually established protective-service programs.

In most instances where protective services are called upon, the older person is a casualty by reason of his own problems. But deliberate victimization does occur and the exploiter may reside in or outside the family:*

> A 67-year-old woman, widowed eight years, was regularly beaten up by her 35-year-old unmarried son. She had turned her little money and her property over to the son. He stopped working. They subsisted on her $80-a-month Social Security check. She did some baby sitting to supplement the income.
>
> Mrs. James was 78 years old. She had retired from a government job and contributed her modest income to her son with whom she lived. But now he had been dead for two years. She and her daughter-in-law had many conflicts, and the daughter-in-law would become enraged and strike the older woman. She moved out and now lived in one dirty room. The neighborhood children called her a witch and tormented her physically and verbally.

These are two examples of what I have called the "battered old person syndrome," both cases where protective services would be an appropriate safeguard.

* Consequently one cannot always advocate maintaining the older person at home. There are, after all, no "standards" in private homes, and an older person may be vulnerable to mistreatment by neighbors or within his or her own family.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
OFFICE OF ASSISTANT ATTORNEY GENERAL,
Washington, DC, April 5, 1985.

Hon. CLAUDE PEPPER,
Chairman, Select Committee on Aging, Subcommittee on Health and Long-Term Care, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your March 12, 1985, letter requesting information on departmental programs regarding abuse of the elderly.

Attached is a copy of a report issued by the Office of Justice Programs which sets forth the activities being coordinated by that office which addresses the issue of abuse of the elderaly. I hope this report will be helpful to you and your Committee. Do not hesitate to contact me in the future if I can be of further assistance.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.
(By): MICHAEL W. DOLAN,
Deputy Assistant Attorney General.

JUSTICE ASSISTANCE ACT AGENCIES

(Formerly the Justice Systems Improvement Act Agencies)

On October 12, 1984, President Reagan signed Public Law 98-473 which included the Justice Assistance Act of 1984, the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984 and the Victims of Crime Act of 1984. The Justice Assistance Act established an Office of Justice Programs headed by an Assistant Attorney General. The Office of Justice Programs (OJP) has the responsibility of coordinating the activities of the newly created Bureau of Justice Assistance and the Victim Compensation Program as well as the three Justice Systems Improvement Act agencies reauthorized by the Justice Assistance Act. Those agencies are: the National Institute of Justice, the Bureau of Justice Statistics and the Office of Juvenile Justice and Delinquency Prevention.

This new legislation authorizes programs to help State and local governments improve the administration of their criminal and juvenile justice systems, provide assistance and compensation to victims of crime, conduct research in criminal and juvenile justice and compile and disseminate criminal and juvenile justice statistics.

The following are the activities of the agencies on behalf of older Americans:

Office of victims of crime

The OJP Office for Victims of Crime continues to implement the recommendations of the President's Task Force on Victims of Crime.

During the hearings held in 1982, the Task Force learned of the special needs of elderly victims. Property losses, such as the theft of a television or a hearing aid, may result in loss of contact with the outside world. Fear of further victimization may result in fewer trips outside the home, increasing an older person's isolation. Elderly persons with sensory impairments may be inappropriately labeled as senile and discounted as witnesses. Minor injuries can produce serious consequences for older persons, and the pace and procedures of hospital emergency rooms may overwhelm them. In many instances, elderly persons live on fixed incomes, which makes financial losses and bills incurred as a result of victimization a greater hardship.

To lessen the trauma and improve the treatment of the elderly and all victims, the Office of Victims of Crime has undertaken the following tasks:

Training.—The office is working closely with a number of national criminal justice professional organizations to develop and deliver training to police officers, sheriffs, judges, prosecutors and defense attorneys, etc., on victim issues and needs. Sensitivity to the particular needs of elderly crime victims will be stressed. The office is also holding discussions with several professional organizations to develop programs to sensitize hospital personnel to the needs and fears of victims, particulary the elderly and children.

Legislation.—The office is reviewing draft model legislation which would require victim impact statements at sentencing; require restitution in all cases, except where specific exceptions are made; provide for payment of costs resulting from the forensic medial examination of sexual assault victims; and protect against disclosure of victims' addresses and phone numbers.

The Victims of Crime Act of 1984 authorizes Federal financial assistance to state victim compensation programs, state victim assistance providers, and increased services for victims of Federal crimes. The Office for Victims of Crime is currently

developing procedures for the administration and distribution of funds under this legislation. Assistance provided by this Act will increase the funds available to compensate victims and enhance services available to them.

National Victims Resource Center (NVRC).—The office is developing the data base which will serve as the Federal clearinghouse for all information concerning victim/witness assistance, victim compensation programs, and organizations that provide services for crime victims and witnesses.

Data is being collected on existing programs and projects that assist crime victims and witnesses. The NVRC will serve as a liaison and provide coordination among national, state, local, and private-sector organizations working to improve services for victims and witnesses. It will monitor the status of compensation programs and victim/witness legislation. A directory of programs and experts in the field is maintained by the NVRC to facilitate communication and the transfer of expertise and to refer victims to appropriate services and resources.

Attorney General's Task Force on Family Violence

The Attorney General's Task Force on Family Violence conducted six regional hearings during which hundreds of professionals with expertise in the area testified, as did a similar number of victims of child abuse and molestation, spouse abuse, and abuse of elderly family members. Senior citizens came forward and provided testimony to the Task Force that vividly depicted their lives as victims of physical, emotional and financial abuse from their own children. In addition, the Task Force reviewed relevant research material and visited a number of treatment facilities programs.

The final report was presented to the Attorney General on September 19, 1984. The report describes the complexity and tragedy of family violence and makes 63 specific recommendations on how we can more effectively deal with this serious national problem. A number of the recommendations specifically address violence directed toward elderly family members, and the Special Considerations section contains a recommendation for grandparents' rights. Additionally, the report includes several recommendations urging further research to determine the most effective reporting methods and intervention techniques in cases of elder abuse. The research recommendations are very significant because the Task Force found a definite lack of data regarding occurrences of elderly abuse, uncertainty and inconsistency in reporting requirements, and an apparent lack of intervention or treatment programs.

The Justice Department is committed to improving the treatment of victims in the criminal justice system, and a division of our Office for Victims of Crime will be devoted to victims of family violence. This office will be working with other Federal, state and local agencies, professional organizations, and civic groups to assist in implementing the recommendations of the Task Force report. Although we have not yet developed specific programs or research efforts, the Office of Justice Programs will make considerable efforts to have a program and research efforts for elderly family members who are victims of violence within the family.

Crime and the elderly

The data gathered by the Bureau of Justice Statistics' National Crime Survey show the rates of crime against the elderly are less than other age groups in America. However, BJS reports that the trauma and economic impact of crime may weigh far more heavily on the elderly, leading them to take precautionary measures that can only impoverish their lives. By altering their lifestyles to minimize a special vulnerability to crimes, the elderly are forced to accept unwarranted limits on their freedom because of the fear of violence.

The latest BJS data found that the ratio of robberies to assaults was 92 to 100 among the elderly compared to about 24 to 100 among younger persons. This shows that the elderly suffer about as many robberies as assaults. In spite of the comparatively low victimization rates among the elderly, this may suggest that the elderly are particularly susceptible to personal crime that is motivated by the opportunity for economic gain.

Other data collected by the Bureau show that the ratio of certain more serious crimes to less harmful crimes has been higher among the elderly than among younger persons. The reason for this may be the differences between the two groups in occupation, lifestyle, exposure to threatening situations, and patterns of property ownership.

Another finding in one of the Bureau's studies is that three-fourths of all personal crime against the elderly were common thefts—86 percent of these thefts were personal larcenies without contact between victim and offender. The other 14 percent were divided between purse snatchings and pocket pickings.

Promoting crime prevention competence

Research has shown that efforts to enhance the crime prevention competence of the elderly can reduce both the incidence and fear of victimization among the elderly by increasing their level of knowledge and the effectiveness of their crime prevention behavior.

The National Institute of Justice is sponsoring research to identify those media and non-media strategies useful in reducing inappropriate levels of fear and in promoting the adoption of appropriate protective measures. Recommendations based on the research are anticipated in the Fall of 1986.

Reducing the fear of crime

An experiment by the National Institute of Justice designed to reduce the fear of crime in inner-city neighborhoods and possibly affect the crime rate itself was recently concluded. One activity instituted in Newark and Houston was a neighborhood newsletter in which crimes against the elderly received attention. From the evaluation it appears that the reporting of such crimes did not increase anxiety and that the citizens were receptive to information about crime prevention.

Reducing the trauma and victimization

Crime victims suffer from injuries that may include economic loss, physical harm and psychological trauma. What may be an appropriate response for the injuries of younger victims may not be as effective for the elderly. Research by the National Institute of Justice is examining the long term effects of victimization and the various approaches for reducing these effects. The results of these studies will enable practitioners to respond better to the needs of elderly victims and their families.

Foster Grandparents and retired senior citizens

The Office of Juvenile Justice and Delinquency Prevention is jointly supporting with ACTION a unique juvenile delinquency prevention project involving retired senior citizens and volunteers in the Foster Grandparents Program. Under the project, volunteer senior citizens and members of the Foster Grandparents Program are assigned two delinquent youths whom they see two hours a day, five days a week. The senior citizens offer counseling and guidance, help with school work, accompany the youths on field trips, and generally provide moral support. The program not only helps the delinquent youths, but also the senior citizen volunteer—many of whom feel they have nothing to do after retirement and sense a loss of direction in their lives.

Crime prevention

The Office of Justice Programs supports the National Citizens' Crime Prevention Campaign, which seeks to promote citizen participation in crime prevention activities and provides information—through public service advertising and published materials—on how citizens can protect themselves from crime. The Campaign features the floppy-eared dog named McGruff who urges the public to help "Take A Bite Out of Crime" by participating in neighborhood block watches, citizen patrols, escort services for the elderly, and other activities and by taking simple precautions. For example, these suggestions are offered to senior citizens:

Have social security or retirement checks sent directly to your checking or savings account.

Senior citizens and youth should look out for one another, and senior citizens can help working parents by watching out for their children after school. Some communities have senior citizens who have formed neighborhood patrols and watch out for the children as they travel to and from school. The interrelationship has restored trust and friendship among the elderly and the youth in many communities.

Ask a friend to go with you when you go out. Some communities have "Dial-A-Ride" mini-buses especially for senior citizens who would otherwise have to travel alone.

—Never trust strangers or casual acquaintances who tell you how you can "get rich quick" or who ask you to give them large sums of money, even for what seem to be good reasons. Don't be taken in by their warmth or friendliness you may never see your money again.

The Campaign publishes a number of informational booklets, including "Senior Citizens Against Crime." The booklets and additional information about the Campaign can be obtained by writing McGruff, Box 6000, Rockville, Maryland 20850.

Publications

The JAA Agencies (formerly the JSIA Agencies) have produced a number of publications relating to crimes against the elderly and programs to combat these crimes. Some of these are: *Crime Against the Elderly in 26 Cities; Crime and the Elderly; Crime Prevention Handbook for Senior Citizens; Crime Prevention Through Environmental Design; Crime Victim Compensation; Criminal Justice and the Elderly: Selected Bibliography; Partnerships in Neighborhood Crime Prevention;* and *Serving Victims of Crime.* Copies of these publications are available from the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

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